

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 20.02.2017

CORAM:

THE HONOURABLE MR. JUSTICE V.BHARATHIDASAN

Criminal Revision No.213 of 2011

1.Gandhimathi

2.C.Nagalingam

... Petitioners

Vs

1.State by:

The Assistant Commissioner of Police,
Adyar Range,
Adyar, Chennai.
(Crime No.991 of 2008),
J-6 Tiruvanmiyur Police Station,
Chennai.

2.Azhagu

3.Prabhakaran

4.Dhanalakshmi

5.Dharmaraj

... Respondents

(The second respondent was impleaded
as per the order of this Court
dated 25.1.2017 in CrI.M.P.931/2017 and
respondents 3 to 5 are impleaded
as per the order of this Court
dated 10.02.2017 in
CrI.M.P.No.2110 of 2017)

Prayer:-

This Criminal revision is filed under Section 397 & 401 of Cr.P.C., to call for the records and set aside the order passed in CrI.M.P.No.4394 of 2010, dated 25.01.2011 in S.C.No.84 of 2010 pending trial on the file of the Court of Additional Sessions and Mahila Court, Chennai.

For petitioners : Mr.B.Kumar, S.C
for Mr.K.S.Kumar
For 1st
Respondent : Ms.M.F.Shabana,
Government Advocate (Crl. side)

O R D E R

Challenging the order of dismissal of the discharge petition in Crl.M.P.No.4394 of 2010, dated 25.01.2011 in S.C.No.84 of 2010 on the file of the Court of Additional Sessions and Mahila, Chennai, the present Criminal Revision has been filed by the petitioners/accused 4 and 5.

2. Totally, there are five accused in this case. All the accused stood charged for the offence under Sections 498(A), 304(B), 306 IPC r/w Section 4 of the Protection of Women Harassment Act.

3. The case of the prosecution in brief is as follows:-

(i) The deceased in the case one Uma Maheswari, is the wife of one Prabhakaran/first accused in this case. The first petitioner is the sister of A.1 and the second petitioner is the husband of the first petitioner and the brother-in-law of A.1.

(ii) The marriage between A.1 and the deceased Uma Maheswari was held on 23.11.2006. Since sufficient dowry was not given to the accused family, she was subjected to cruelty. For delivery of child, she had gone to her parent's house on 13.09.2007 and a male child was born to her. Then she returned to matrimonial home and residing there as joint family. While the deceased gone to her parent's house for delivery, A1, A.2, and A5 demanded dowry of 10 sovereigns of gold and cash of Rs.2,00,000/-. Thereafter, on 22.06.2008, the deceased consumed bathroom cleaning acid. Immediately, she was taken to the Malar Hospital and after giving first aid, she was shifted to Apollo Hospital, wherein she died on 22.06.2008.

(iii) In the above circumstances, the father of the deceased gave a complaint to J-6 Tiruvanmiyur Police Station and the complaint was registered by the respondent police under Section 174 Cr.P.C. Since the death had occurred within a period of seven years from the date of marriage, a R.D.O enquiry was conducted. After conducting enquiry, the R.D.O. filed a report dated 24.06.2008, wherein he has stated that the petitioners herein viz., A.4 and A.5 are residing separately and there is no evidence against these petitioners/A.4 and A.5, and requested the respondent police to take action only against the other accused. Thereafter, the respondent police

conducted investigation and based on the investigation, they altered the crime for the offence under Section 498(A), 304(B) and 306 IPC r/w Section 4 of the Protection of Women Harassment Act. After completion of investigation, they filed a final report and the matter was also taken on file by the Court below.

(iv) At this juncture, A4 and A5, the petitioners herein filed a petition in CrI.M.P.No.4394 of 2010 under Section 227 Cr.P.C to discharge them from the charges levelled against them. The trial Court dismissed the said discharge petition. As against the order of dismissal, the present Criminal Revision has been filed.

4. I have heard Mr.B.Kumar, learned Senior Counsel for Mr.K.S.Kumar, learned counsel appearing for the petitioners and Ms.M.F.Shabana, learned Government Advocate (Criminal side) appearing for the first respondent and perused the materials available on record.

5. The learned counsel for the revision petitioners submitted that the petitioners are the sister and brother in law of A1 and they are living separately. Moreover, there is no allegation as against these petitioners and they have not demanded any dowry. Pending revision, mediation had taken place between the father of the deceased and the petitioners and the respondents 3 to 5, who are relatives and family friends and the differences between the defacto complainant, and the family members of the deceased has been sorted out. The defacto complainant Alagu, the father of the deceased is also present before this Court. He has also filed an affidavit stating that they have settled their dispute between themselves and peace has been prevailing between both the families. Hence, he requested this Court to allow the Criminal Revision.

6. In view of the above circumstances, as there is no allegation against the petitioners for demanding dowry and in the RDO enquiry also, it is stated that the petitioners are living separately and there is no material against them to show the harassment or demand of dowry. In the above circumstances as there is no prima facie material available against these petitioners, to proceed with, they are entitled to discharge from all the charges and this Court is inclined to allow the Criminal Revision.

7. In the result, the order passed in CrI.M.P.No.4394 of 2010, dated 25.01.2011 is set aside and the Criminal

Revision is allowed. The petitioners/A.4 and A.5 are discharged from the charges levelled against them.

Sd/-
Assistant Registrar

//True Copy//

Sub Assistant Registrar

cla

To

1.The Additional Sessions and Mahila Court,
Chennai.

2.The Assistant Commissioner of Police,
Adyar Range, Adyar, Chennai.

+lcc to Mr.K.S.Kumar, Advocate Sr. 10702

Cr1.R.C.No.213 of 2011

VR(05/07/2017)



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