

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 20.03.2017

CORAM:

THE HONOURABLE MR.JUSTICE V.BHARATHIDASAN

Crl.RC.No.367 of 2015
& M.P.No.1 of 2015

Priyadarshini ... Petitioner/Petitioner/Accused 4

Vs

1. State rep. By
The Inspector of Police,
All Women Police Station,
Krishnagiri Town,
Krishnagiri District.
(Crime No.4 of 2014)
... Respondent/Respondent/Complainant

2.K.Velusamy
... Respondent/Respondent/Defacto Complainant

Criminal Appeal has filed under Section 397 and 401 Cr.P.C., seeking to call for the records and set aside the order passed by the learned Judicial Magistrate No.II, Krishnagiri in Crl.M.P.No.7506 of 2014, dated 07.3.2015 in C.C.No.170 of 2014.

For Appellant: Mr.P.Kumaresan

For Respondent-1 : Mr.R.Ravichandran,
Govt. Advocate (Crl.side)

For Respondent-2 : Mr.T.C.Sajith Babu
for M/s. Prince Associates

ORDER

This Criminal Revision has been filed by the petitioner against the order dismissing the petition filed under section 239 of Cr.P.C. to discharging her from the Criminal Case. The petitioner along with three others stood charged for the offences under Section 4 of Dowry Prohibition Act and Section 4 of Tamil Nadu Prohibition of Women Harassment Act. The case of the prosecution was that the A1 in the case is the father of the

petitioner and A2 is mother and A3 is the brother of the petitioner herein. Earlier the marriage was fixed between A3 and the defacto complainant's daughter one Jayashree and at that time, all the accused insisted the defacto complainant to conduct the betrothal festival in a grand manner and the Betrothal function was also conducted on 12.12.2013, and decided to conduct the marriage on 03.06.2014. In the mean time, the accused family demanded 100 Sovereign of Gold jewels and 2kgs. of Silver articles apart from a Car and other household articles. They have also demanded Rs.5 lakhs in cash and the dafacto complainant also promised to meet all those demands after the marriage. Thereafter, A2 mother of the petitioner quarreled with the defacto complainant's family and abused them and also stopped the marriage. Hence, the second respondent/defacto complainant filed a complaint on 26.03.2014. Based on the complaint, a criminal case was registered for the offences under Section 4 of the Dowry Prohibition Act and also Section 4 of Tamil Nadu Prohibition of Women Harassment Act and 355 of IPC against all the four accused.

2. After investigation, a final report was filed by the first respondent police only for an offences under Section 4 of the Dowry Prohibition Act and Section 4 of Tamil Nadu Prohibition of Women Harassment Act. Thereafter, the petitioner/4th accused in this case filed a petition under Section 239 Cr.P.C. to discharge her from the above criminal case on the ground that there is no prima facie case made out against her.

3.The court below dismissed the application and challenging the above said order, the present revision has been filed.

4. Learned counsel for the petitioner submitted that on the material available on record there is no prima facie case made out against the petitioner and absolutely, there is no allegation against the petitioner for demand of dowry and also harassment of the daughter of the second respondent/defacto complainant. The entire allegation is only against A2 and A3 and A1. Except the statement that the petitioner that all the accused including the petitioner herein had compelled the defacto complainant to conduct the Betrothal ceremony in a grand manner, there is no allegation made against this petitioner. Since no prima facie case is made out against the petitioner, she sought for discharge.

5. Mr.T.C.Sajith Babu, learned counsel appearing for the second respondent would submit that a perusal of the complaint and the statement of the witnesses would show that a prima facie case is made out against this petitioner also. In

the statement, the defacto complainant had stated that the entire family demanded dowry which included the present petitioner also. After spending huge amount towards Betrothal Ceremony, now the accused family abruptly stopped the marriage causing distress and agony to the family of the defacto complainant. From the said occurrence, the defacto complainant's family were not able to perform their daughter's marriage. After considering all the materials, the trial court has rightly dismissed the same. Hence, sought for dismissal of the petition.

6. Learned Government Advocate appearing for the first respondent contended that there was sufficient materials available on record against the petitioner and there is no merit in the Civil Revision Petition.

7. I have heard the learned counsel for the petitioner and the learned counsel for the respondents.

8. It is a settled law at the time of framing charge, the Court need not conduct an elaborate enquiry to find out any material placed by the prosecution are sufficient for conviction of the accused. If the material produced by the prosecution during investigation shows that there is prima facie case to proceed further against the accused then there is no bar and the Court can frame the charge against the accused.

9. In the instant case, I have carefully considered the entire materials. A perusal of the statement of second respondent/defacto complainant would reveal that the only allegation against the petitioner is that before the marriage, the petitioner along with her family members compelled the defacto complainant to conduct the Bedrothal ceremony in a grand manner. Even though there is a vague statement that the entire family demanded dowry, subsequently it was stated that only A1 and A2 demanded dowry and there is no specific allegation against this petitioner that she had demanded dowry or harassed the family of the defacto complainant.

10. Considering the material available on record, I find there is no prima facie case made out against this petitioner to proceed further. The Court below without considering all those aspects has erroneously come to the conclusion that there are material available against this petitioner. In the above circumstances, in the absence of any material the Trial Court cannot frame a charge and proceed against this petitioner.

11. Under such circumstances, the order of the court below is set aside and the Criminal Revision Petition is allowed

and the petitioner is discharged from all the charges. However, as the final report had already been filed, the Court below is directed to expedite the trial against the accused and conclude the same within a period of six months from the date of receipt of a copy of this order. Consequently, connected miscellaneous petition is closed.

Sd/-
Assistant Registrar(CS V)

//True Copy//

Sub Assistant Registrar

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To

1. The Judicial Magistrate No.II,
Krishnagiri.
2. The Inspector of Police,
All Women Police Station,
Krishnagiri Town,
Krishnagiri District.
3. The Public Prosecutor,
High Court, Madras.

+1cc to M/S.Prince Associates, Advocate Sr.17094

Cr1.R.C.No.367 of 2015

pvs[col]
srg 13/04/2017

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