



BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

DATED: 21.12.2017

CORAM:

THE HONOURABLE MR. JUSTICE A.M.BASHEER AHAMED

Crl.R.C. (MD)No.943 of 2017

and Crl.M.P. (MD)Nos.11572 & 11573 of 2017

P.Ashok Kumar

... Petitioner/Accused

Vs.

The State represented by,
The Inspector of Police,
All Women Police Station,
Thallakulam,
Madurai District.
(Crime No.25 of 2015)

... Respondent/Complainant

PRAYER: The Petition filed under Section 397 r/w 401 of Cr.P.C. to call for the entire records pertaining to the order passed by the learned Mahila Court Judge, Madurai in Cr.M.P.No.2 of 2017 in S.C.No.546 of 2016 vide his order dated 13.11.2017 and set aside the same and consequently the petitioner may be discharged from the accusation arisen in the said case.

For Petitioners : Mr.R.Anand

For R1 : Mr.C.Mayilvahana Rajendren, APP

ORDER

This revision has been filed to set aside the order dated 13.11.2017 passed by the learned Mahila Court Judge, Madurai in Cr.M.P.No.2 of 2017 in S.C.No.546 of 2016 and consequently, the petitioner may be discharged from this case.

2.The learned counsel for the petitioner is present. Mr.C.Mayilvahana Rajendren, Additional Public Prosecutor takes notice for the respondent herein. Heard. This Criminal Revision case is taken up for final hearing at the admission stage itself by consent of both parties.

3.The present Criminal Revision case is preferred against the order of dismissal of discharge petition filed by the petitioner / sole accused in S.C.No.546 of 2016 before the learned Sessions Judge, Mahalir Neethimandram, Madurai.



4. The learned counsel for the petitioner submitted that in the earlier complaint, referred in the 161(3) statement of the complainant was not produced by the prosecution. The above fact is not pleaded in the petition filed for discharging before the Trial Court.

5. On perusal of the 161(3) statement of the de facto complainant, it is made clear that the petitioner had inter-course forcibly with the de facto complainant, by taking her to Rameshwaram and thereafter, the petitioner had inter-course with the de facto complainant on many occasions by giving false promise of marriage. The medical report also reveals the fact that the hymen is not intact, while the de facto complainant was examined.

6. The available materials produced by the learned counsel for the petitioner also reveals the fact that the de facto complainant was forcibly inter-coursed by the petitioner herein at the first instance and thereafter, the petitioner had physical contact with the de facto complainant by giving false promise to marry her. There are sufficient grounds for proceedings against the petitioner. The grounds raised in this revision do not find a place in his discharge petition. There is no pleading before the Court below about the averments made in para (6) of the Revision petition.

7. Considering the facts and circumstances of the case, this Court is not inclined to interfere with the impugned order of the Court below. Accordingly, the Criminal Revision is dismissed at the admission stage itself. Consequently, connected Miscellaneous petitions are closed. It is open to the petitioner to prove his defence at the time of trial before the Trial Court.

Sd/-

Assistant Registrar(CS-I)

/True Copy/

Sub Assistant Registrar

To

1. The Sessions Judge,
Mahalir Neethimandram,
Madurai.

2. The Inspector of Police,
All Women Police Station,
Thallakulam,

<https://hcservices.madurai.gov.in/services/>

(Crime No.25 of 2015)



3.The Additional Public Prosecutor,
Madurai Bench of Madras High Court,
Madurai.

Gns

AE/MR/SAR4/22.01.2018/3P/4C

**Cr1.R.C. (MD) No.943 of 2017
and Cr1.M.P. (MD) Nos.11572 & 11573 of 2017
21.12.2017**