

IN THE HIGH COURT OF JUDICATURE AT MADRAS

Reserved on :25.07.2018

Pronounced on :14.09.2018

Coram:

THE HONOURABLE MR.JUSTICE RMT.TEEKAA RAMAN

Criminal Revision Case No.607 of 2018
Bharanidharan .. Petitioner

/versus/

1.State Rep.by
Inspector of Police,
Anti Vice Squad, Chennai.
(Cr.No.40 of 2018)

2.Janavi .. Respondents
Criminal Revision Case filed by the petitioner under
Sections 397 and 401 of Cr.P.C., praying to set aside the order
passed by the learned IV Metropolitan Magistrate at Saidapet,
Chennai in C.M.P.No.638 of 2018, dated 28.04.2018 by calling for
the records.

For Petitioner : Mr.J.Willam Shakesphere

For Respondents : Mr.R.Surya Prakash,
Government Advocate

O R D E R

Criminal Revision Case has been filed by the petitioner
praying to set aside the order passed by the learned IV
Metropolitan Magistrate at Saidapet, Chennai in C.M.P.No.638 of
2018, dated 28.04.2018.

2. The petitioner, who claims to be the husband of the
victim Janavi filed the above petition in C.M.P.No.638 of 2018
in AVS Crime No.40 of 2018 before the Metropolitan Magistrate
to handover the custody of the victim to the petitioner.

3. It appears that the victim was produced before the
Court on 27.04.2018 through video conference and her statement
was recorded through video conferencing. The victim was
identified by the petitioner and he has stated about her
previous stay at Bangalore with one Vimala Mary. She claims that
he married the petitioner herein Bharanidharan. It appears from

the impugned order that the Judicial Magistrate has also examined the petitioner and his statement was recorded.

4. According to his statement, they fell in love with each other and got married in Dharmasala, Bengaluru without the knowledge of his parents. After marriage, they move to Vellore and were residing in his own house in Vellore along with the parents of the petitioner. He also states that his wife came to Chennai with the knowledge of the petitioner along with her friend Shoba to attend a function. But, he is unaware of the fact that why his wife was caught by the police. In support to his submission, he has produced his Aadhaar card and Voter ID as well as the Victim's Aadhaar card and voter ID.

5. However, after getting the report of the Probation Officer, the learned Magistrate has observed certain discrepancies which caused serious doubt about the genuineness of claim of the petitioner. Accordingly, the trial Judge, after following the procedure as contemplated under Section 17(2) and 17-A of ITP Act, has dismissed the petition and handed over the custody of the victim to the Government Protection Home with certain conditions as stated in the impugned order.

6. When the criminal revision is taken up for hearing, this Court has directed the Public Prosecutor to get the report of the Probation Officer from Bangalore, which was not submitted earlier before the Jurisdictional Magistrate.

7. It remains to be stated that when the Probation Officer attached to Egmore Division has contacted the victim, she is not willing to give any reply to his question. Accordingly, the Probation Officer from Egmore Division, Chennai has submitted his report. The Probation Officer from Vellore, whose report has been filed before the Jurisdictional Magistrate, has categorically stated that no positive report has been placed by the Probation Officer from Vellore Range. As directed by this Court on 27.06.2018, the Probation Officer, Bangalore has submitted his report stating that Vimala Mary was originally the care taker of the victim girl for the period of five years. According to the said lady, she came to know that the victim was married to the petitioner and staying in Vellore. After enquiry, it was found that the address of Vimala Mary (care taker of victim) is genuine. He did not get any negative opinions from neighbours about them with the best interest of victim's social feature, he submitted his report to Court for further actions and orders.

8. Heard both sides and perused the materials available on record.

9. After perusing the typed set of papers wherein the copies of the Aadhar card, voter ID and family card of the petitioner and his parents were produced, it appears that they are residing in Pallikonda, Vellore District. However, on perusing the Aadhar card of the victim girl, it appears that she had applied for Aadhar card on 12.03.2018 and the election card was issued much earlier. Nowhere in the affidavit, the petitioner has stated the date of marriage. It remains to be stated that the Aadhar card application was said to be given on 12.03.2018, whereas she was caught by the Inspector of Police, AVS Police Station on 19.03.2018, which creates very serious doubt about the alleged marital relationship as projected by the petitioner. Hence, even after the report of the Probation Officer about Vimala Mary, that does not support the case of the petitioner, and in view of the inconsistency with regard to the documents produced by the petitioner before the Court, this Court is of the opinion that the claim of the petitioner is not genuine with regard to the alleged matrimonial relationship.

10. In this view of the matter, I am not inclined to allow this petition. Accordingly, this Criminal Revision Case is dismissed.

Sd/-
Assistant Registrar (CS-IV)

//True copy//

Sub Assistant Registrar

To

1. The IV Metropolitan Magistrate, Saidapet, Chennai.
2. The Inspector of Police, Anti Vice Squad, Chennai
3. The Public Prosecutor, High Court, Madras.
4. The Section Officer, Criminal Section, High Court Madras.

+1cc to Mr. J. William Shakespeare, Advocate SR.No.63718

Cr1.R.C.No.607 of 2018

GMV (05/10/2018)