

IN THE HIGH COURT OF JUDICATURE AT MADRAS

Dated : 28.08.2018

CORAM:

THE HONOURABLE MR. JUSTICE P.VELMURUGAN

Crl.R.C.No.299 of 2016 and

Crl.M.P.No.1990 of 2016

C.U.Sampath

...Petitioner

Vs.

The Inspector of Police,
All Women Police Station,
Tirupattur, Vellore District.

... Respondent

Prayer: The Criminal Revision filed under Section 397 and 401 of Code of Criminal Procedure to call for the records pertaining to the order dated 16.10.2015 made in CMP.No.4252 of 2015 in C.C.No.56 of 2013 by the learned Judicial Magistrate I, Tirupattur, Vellore District, and to set aside the same.

For Petitioner : Mr.G.Jeremiah

For Respondent : Mr.R.Ravichandran

Govt. Advocate (Crl side)

ORDER

This criminal revision has been filed against the order dated 16.10.2015 made in C.M.P.No.4252/2015 in C.C.No.56/2013 by the learned Judicial Magistrate I, Tirupattur.

2 The revision petitioner is 1st accused in C.C.No.56 of 2013. He filed a petition in Crl.M.P.No.4252 of 2015 under Section 239 of Cr.P.C. seeking discharge. The learned trial Judge dismissed the petition by order dated 16.10.2015, on the ground of maintainability, against which, the 1st accused has preferred this present criminal revision before this Court.

3 The learned counsel for the petitioner/1st accused would submit that the learned Magistrate has not given any valid reason to dismiss the petition filed by the petitioner under Section 239 of Cr.P.C. seeking discharge, which warrants interference of this Court.

4 The learned Government Advocate (Crl.Side) would submit that the petitioner has filed the petition under Section 239 of Cr.P.C. seeking discharge, after framing of charges under Sections 498 (A), 494 of IPC and under Section 4 of Dowry Prohibition Act and after commencement of trial and the case was posted for examination of Investigating Officer. Hence the learned Magistrate has rightly dismissed the petition, which does not warrant any interference of this Court.

5 Heard the learned counsel appearing for petitioner and the learned Government Advocate (Crl.Side) appearing for respondent police and perused the materials available on record.

6 On a perusal of the records, it reveals that the petitioner has filed the petition under Section 239 of Cr.P.C., seeking discharge, after framing of charges and after commencement of trial and the case was posted for examination of Investigating Officer. It is well settled proposition of law that after commencement of trial, petition under Section 239 seeking discharge is not maintainable. Hence the learned Magistrate has dismissed the petition, in which this Court does not find any perversity.

7 Further, when there is prima facie materials available to frame charges against the accused, the Court need not discharge the accused, without any trial or evidence. At the time of deciding petition under Section 239, the Court has to look into the documents produced under Section 173 of Cr.P.C. and the defence taken by the accused need not be looked into.

8 In view of the above, this Court does not find any valid reason to interfere with the order dated 16.10.2015 made in Crl.M.P.No.4252 of 2015 and hence the revision is dismissed. Consequently, connected miscellaneous petition is closed.

Sd/-

Assistant Registrar(cS VI)

//True Copy//

Sub Assistant Registrar

cgi/ssi

To

1. The Judicial Magistrate I,
Tirupattur, Vellore.
2. The Inspector of Police
All Women Police Station,
Tirupattur, Vellore.
3. The Public Prosecutor,
High Court of Madras.

KJI (CO)

sm:27.9.2018

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Crl.M.P.No.1990 of 2016