

IN THE HIGH COURT OF JUDICATURE AT MADRAS

Dated : 06.09.2018

CORAM:

THE HONOURABLE MR. JUSTICE P.VELMURUGAN

Crl.R.C.No.880 of 2013
and
M.P.No.1 of 2013

Marimuthu

...Petitioner/Accused No.4

Vs.

State by

The Inspector of Police,
All Women Police Station,
Suramangalam.

...Respondent/Complainant

This Criminal Revision filed under Section 397 read with 401 of Code of Criminal Procedure to set aside the order dated 03.05.2013 made in C.M.P.No.360 of 2013 in C.C.No.27 of 2013 on the file of the learned Additional Mahila Court, Salem.

For Petitioner : Mr.R.Sugumaran

For Respondent : Mr.R. Ravichandran
Govt. Advocate (Crl.Side)

सत्यमेव जयते
O R D E R

The respondent police filed a case against the revision petitioner and others in Crime No.6 of 2010. After the investigation, the respondent police filed Charge Sheet against the petitioner for offence under Section 498 A IPC and Section 4 of Dowry Prohibition Act. The learned Additional Mahila Court, Salem has taken up the case on file in C.C.No.27 of 2013. During the pendency of C.C.No.27 of 2013, the revision petitioner/4th accused filed the petition under Section 239 of Cr.P.C. to discharge him from the charges to be framed against him in C.M.P. No.360 of 2013 on the file of the learned Additional Mahila Court, Salem. After hearing the argument on both sides, the trial Court has dismissed the petition in C.M.P. No.360 of

2013, by an order dated 03.05.2013. Challenging the said judgment, the revision petitioner/4th Accused filed the present revision petition before this Court.

2. The learned counsel for the petitioner would submit that the revision petitioner was not present at the time of the alleged occurrence and therefore Section 498 A of IPC is not attracted. Subsequently, they have falsely implicated the petitioner and there is no material to frame charges against him. Therefore, order passed by the learned Magistrate is liable to be set aside.

3. The learned Government Advocate (Crl. Side) would submit that there are materials to show that the petitioner took part in the offence and also 161(3) Cr.P.C. statement would reveal that there are witnesses who have spoken about involvement of this petitioner also. Therefore, the trial Court has found that there is prima facie allegation against the revision petitioner/4th accused. Therefore, the trial Court has dismissed the petition filed by the revision petitioner and directed him to meet the trial. Therefore, order passed by the learned Magistrate does not warrant interference.

4. Heard both side and perused the documents available on records.

5. A perusal of the report filed by the respondent police under Section 161(3) Cr.P.C. statement would reveal that there are witnesses who have spoken about the involvement of the petitioner. There is a prima facie allegation and there are materials to prove the involvement of the revision petitioner. It is well settled proposition of law while considering petition filed under section 239 Cr.P.C., the Court has to look into the documents filed by the respondent police under section 173 Cr.P.C. and not the defence. Therefore, there is a prima facie allegation made out against the accused and also from the statements recorded by the respondent police from the witnesses, there are enough materials against the revision petitioner also. The question as to whether he was present at the time of allegation and whether he involved in the offence can be decided after the trial.

6. This Court has carefully gone through the order dated 03.05.2013 made by the Court below in C.M.P.No.360/2013. This Court does not find any illegality or infirmity in the order passed by the Court below.

7. In the result, there is no merit in the revision case.

Hence, the criminal revision case is dismissed. Consequently connected miscellaneous petition is closed.

Sd/-
Assistant Registrar (CS-VII)

//True copy//

Sub Assistant Registrar

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To

1. The Additional Mahila Court, Salem.

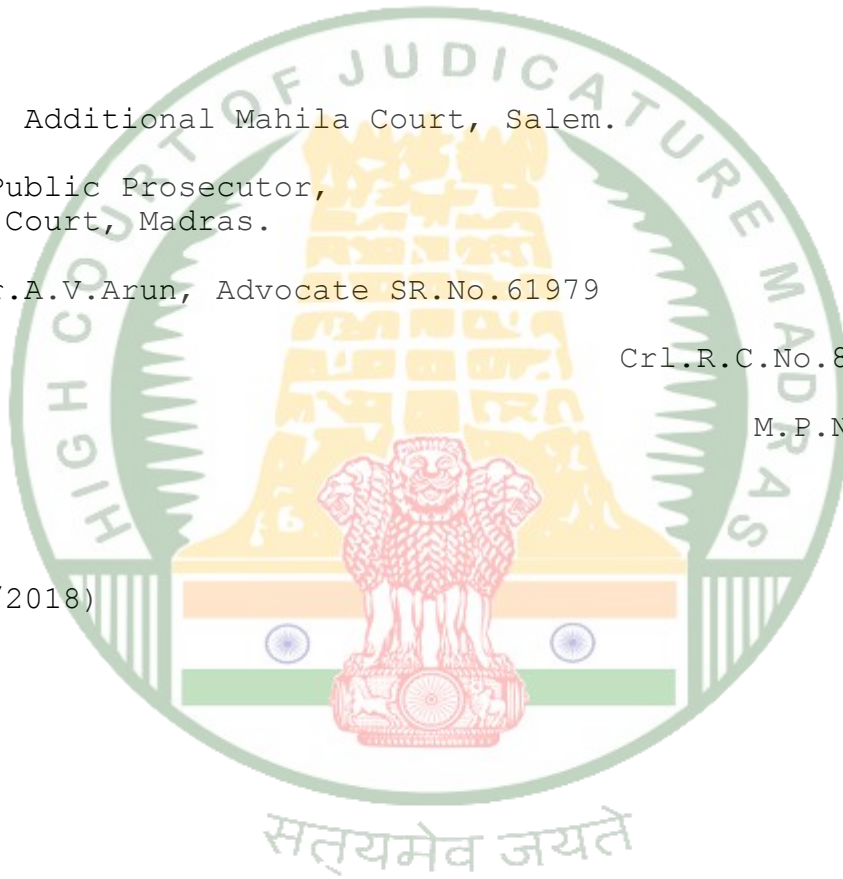
2. The Public Prosecutor,
High Court, Madras.

+1cc to Mr.A.V.Arun, Advocate SR.No.61979

Crl.R.C.No.880 of 2013
and
M.P.No.1 of 2013

NMI (CO)

GMV (29/10/2018)



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