

IN THE HIGH COURT OF JUDICATURE AT MADRAS
Dated : 03.12.2018

CORAM:
THE HONOURABLE MR. JUSTICE V.PARTHIBAN

Crl.R.C.No.1101 of 2018

Mrs.Ruchitha

... Petitioner

Vs.

1.S.Vivek

2.B.T.Shanmuga Sundaram

3.Mrs.Uma Gowri

4.Mrs.M.Archana

5.Murali

... Respondents

PRAYER : The Criminal Revision filed under Section 397 read with 401 of Code of Criminal Procedure against the order passed in C.M.P.No.1335 of 2018 dated 29.08.2018, on the file of the learned Judicial Magistrate-cum-Additional Mahila Court, Salem.

For Petitioner : Mr.K.Selvaraj

For Respondents : Mr.L.Chandrakumar for
Ms.Amrita Poonkodi for RR1 to 5

O R D E R

The present criminal revision case has been filed against the order passed in C.M.P.No.1335 of 2018 dated 29.08.2018, on the file of the learned Judicial Magistrate-cum-Additional Mahila Court, Salem.

2. According to the petitioner, on 23.04.2018, she lodged a complaint against her husband and in -laws, respondents 1 to 5 herein, for cruelty and dowry harassment. The learned Magistrate ordered investigation into the complaint and on the basis of the report filed by the police concerned, the learned Magistrate had dismissed the complaint filed by the petitioner. Against the dismissal order, the present criminal revision case has been filed.

3. The learned counsel for the petitioner would submit that no reasons were recorded in the order of dismissing the complaint filed by the petitioner herein vide order dated 29.08.2018. Though the report of the Inspector, All Women Police Station Town, Salem City was referred to in the order dated 29.08.2018, the copy of the report was not furnished to the petitioner nor the contents of the same were mentioned in the order. According to the learned counsel, the complaint has been filed alleging various acts of cruelty and dowry harassment against the respondents, but, despite existence of prima facie material for proceeding with the complaint, the learned Magistrate had simply dismissed the case without recording any reasons at all. It is incumbent upon the learned Magistrate to record reasons for not proceeding with the complaint.

4. According to the learned counsel for the petitioner, neither the petitioner nor any one was examined by the learned Magistrate and some report has been obtained behind the back of the petitioner and the same has been relied on for the purpose of dismissing the complaint. According to the learned counsel, the impugned order is completely bereft of any reason and therefore, the same is liable to be interfered with.

5. The learned counsel for the respondents would submit that it is not imperative on the part of the learned Magistrate to give reason in the order and it is enough, if the learned Magistrate is satisfied. There was no material to proceed with the complaint. The satisfaction of the learned Magistrate concerned was enough either to proceed with the complaint or dismiss the complaint. In this case, the learned Magistrate taken into consideration the report of the police concerned and on the basis of the report, the learned Magistrate felt that there was no material to proceed with the complaint. Therefore, the learned Magistrate had dismissed the complaint. He would therefore submit that nothing wrong in such closure of the complaint, as it was well within the power of the learned Magistrate to order investigation and after investigation by the police, a report was filed and on the basis of the same, the complaint was closed.

6. Admittedly, the report of the police though referred, the copy of the same was not furnished to the complainant. The learned Magistrate has neither chosen to refer to the contents of the report, but, simply referred to the report and dismissed the complaint. When adverse order being passed against the complainant, it is mandatory that the copy of the report which was relied on by the learned Magistrate to be furnished, as the complainant would know on what basis the complaint could not be proceeded with. Failing to refer to the contents of the report and also failing to furnish a copy of the same to the

complainant, amounts to violation of principles of natural justice.

7. As rightly contended by the learned counsel for the petitioner that the learned Magistrate ought to have examined the complainant and examined any materials in support of the complaint before taking a final decision in the matter. From the contents of the impugned order, such exercise by the learned Magistrate is not reflected at all. Therefore, this Court is of the view that the order passed by the learned Magistrate dated 29.08.2018, cannot be countenanced in law.

8. Be that as it may, this Court has ordered for production of copy of the report filed by the police concerned, on the basis of which the complaint came to be dismissed. In pursuance of the direction, the report of the police dated 29.06.2018 was produced before this Court. It appears that the police had prepared a detailed report on the basis of the investigation ordered by the learned Magistrate. However, without expressing any opinion on the report, this Court is of the view that in any event, the order passed by the learned Magistrate which is impugned in the present revision case, is unsustainable in law. Therefore, the order passed by the learned Judicial Magistrate-cum-Additional Mahila Court, Salem, in C.M.P.No.1335 of 2018, dated 29.08.2018, is hereby set aside and the matter is remanded back to the learned Magistrate. The learned Magistrate is directed to furnish copies of the report of the Police dated 29.06.2018 to the parties and examine the complainant and other relevant materials in support of the complaint and pass a reasoned order. The learned Magistrate is directed to complete the above exercise within a period of six weeks from the date of the complaint stands restored on the file of the Trial Court.

9. The Criminal Revision Case shall stand allowed on the above terms.

Sd/-

Assistant Registrar

//True Copy//

Sub Assistant Registrar

gsk

To

1.The learned Judicial Magistrate-cum-Additional Mahila Court,
Salem.

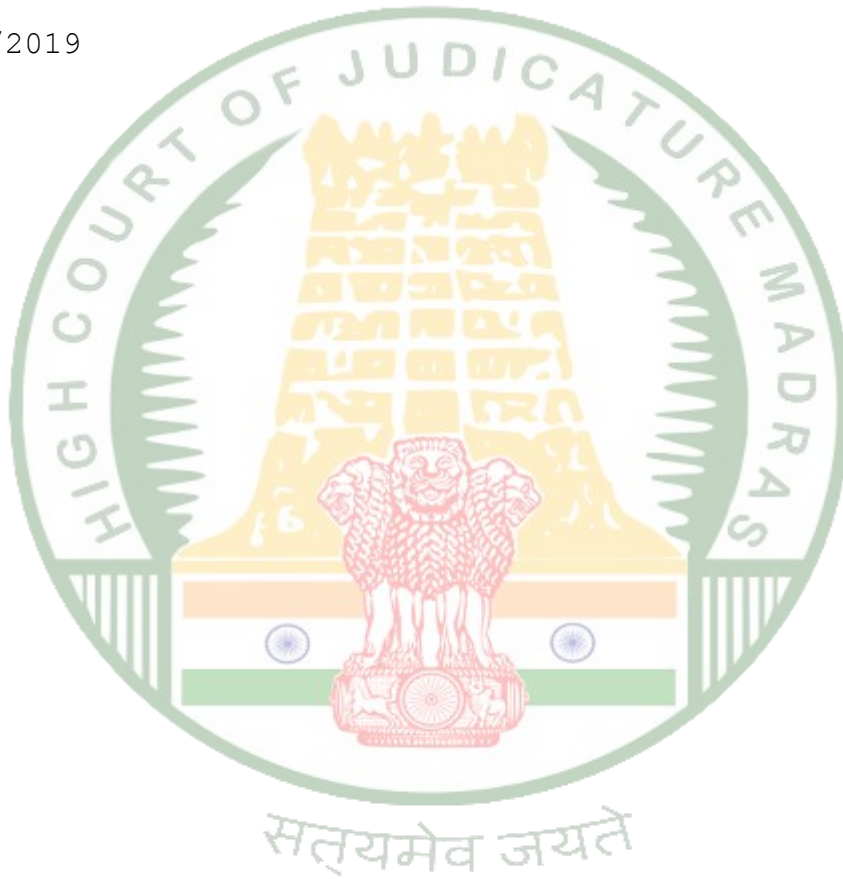
2.The Section Officer,
Criminal Section,
High Court, Madras.

+1cc to M/s.Amrita, Advocate, S.R.No.83081
+1cc to Mr.K.Selvaraj, Advocate, S.R.No.82545

Cr1.R.C.No.1101 of 2018

SSD(CO)

rrs 08/01/2019



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