



BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

DATED: 27.03.2018

CORAM:

THE HONOURABLE MR.JUSTICE P.N.PRAKASH

Cr1.R.C.(MD)No.184 of 2018

and

Cr1.M.P.(MD)Nos.2393 and 2394 of 2018

Senthil Kumar

: Petitioner/Accused No.3

Vs.

State Represented by
Inspector of Police,
CCB, Tirunelveli,
Cr.No.32 of 2009,
Tirunelveli District.

: Respondent/Complainant

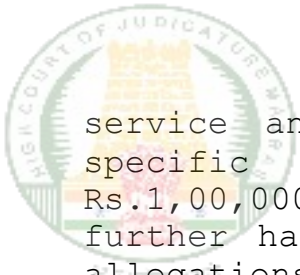
PRAYER: Criminal Revision Case is filed under Sections 397 and 401 of the Criminal Procedure Code praying to admit this revision on file, to call for the records from the lower court and to duly set aside the judgment passed by the learned Judicial Magistrate, Additional Mahila Court, Tirunelveli, Tirunelveli District in Cr1.M.P.No.1273 of 2017, dated 30.01.2018 and consequently, direct the learned Judicial Magistrate, Additional Mahila Court, Tirunelveli, Tirunelveli District to discharge the revision petitioner in C.C.No.101 of 2017 on the file of the learned Judicial Magistrate, Additional Mahila Court, Tirunelveli, Tirunelveli District.

For Petitioner
For Respondent

: Mr.J.Senthil Kumar
: Mrs.S.Bharathi,
Government Advocate (Cr1.side)

ORDER

On the complaint lodged by Lakshmi, the respondent police registered a case in Crime No.32 of 2009 on 31.12.2009 and after completing the investigation, have filed a charge sheet in C.C.No.101 of 2005 before the learned Judicial Magistrate No.I, Tirunelveli, for the offences under Sections 409, 420, 120-B, 354 of the Indian Penal Code and Section 4 of Tamil Nadu Prohibition of Harassment of Women Act, 2002. It is the case of the defacto complainant that A-1 promised to get job in Group I and Group II



service and took Rs.1,00,000/- for getting the job. It is the specific case of the *defacto* complainant that the sum of Rs.1,00,000/- was put into the bank account of A-3 and that A-3 had further handed over the money to A-1. Of course, there are other allegations against A-1 and A-2 with regard to making the *defacto* complainant believe that A-2 is an incarnation of God and forcing the *defacto* complainant to marry him. During trial, A-1 and A-2 absconded and the case against this petitioner has been split up. This petitioner filed Crl.M.P.No.1273 of 2017 under Section 227 of the Code of Criminal Procedure for discharge, which, the Trial Court has dismissed on 30.01.2018, challenging which, this revision has been filed.

2. Heard the learned counsel for the petitioner and the learned Government Advocate (Criminal side) for the respondent.

3. The learned counsel for the petitioner submitted that since A-1 did not have any bank account in ICICI Bank, A-3 had only helped him innocently by accepting the money given by the *defacto* complainant and transferring it to A-1.

4. In the opinion of this Court, *mens rea* cannot be decided in a discharge application. Only when the witnesses are examined, these aspects can be established.

5. It is a trite law that even a strong suspicion is enough to frame charges. In such view of the matter, this Court does not find any infirmity in the order passed by the Trial Court warranting interference. Hence, this Criminal Revision Case is dismissed. Consequently, the connected miscellaneous petitions are closed.

6. However, the learned counsel for the petitioner submitted that the presence of the petitioner before the Trial Court may be dispensed with.

7. Accepting the said submission, the Trial Court may liberally entertain the petition under Section 317 of the Code of Criminal Procedure on condition that the petitioner will not dispute his identity and the counsel will cross-examine the witnesses on the day they are examined in chief, as directed by the Supreme Court in **Vinod Kumar vs. State of Punjab** reported in **2015 (1) Scale 542**, without adopting any dilatory tactics. If the petitioner absconds, a fresh Information Report can be registered against him under Section 229-A of the Indian Penal Code.

Sd/-
Assistant Registrar (AD-II)

/True Copy/



To

1. The Judicial Magistrate,
Additional Mahila Court,
Tirunelveli,
Tirunelveli District.
2. The Inspector of Police,
CCB, Tirunelveli,
Tirunelveli District.
3. The Additional Public Prosecutor,
Madurai Bench of Madras High Court,
Madurai.

+ 1 CC TO Mr.J.SENTHIL KUMAR, ADVOCATE IN SR No. 58045

SML

TE/SKN-RSK/SAR-4 : 09/04/2018 : 3P/5C

Order made in
Crl.R.C.(MD)No.184 of 2018 and
Crl.M.P.(MD)Nos.2393 and 2394 of 2018
Dated:-27.03.2018