



WEB COPY

BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

DATED: 11.01.2018

CORAM:

THE HONOURABLE MR.JUSTICE P.N.PRAKASH

CrI.R.C.(MD) No.22 of 2018
and
CrI.M.P.(MD) No.231 of 2018

Kalaivili

... Revision Petitioner/Petitioner/
Accused

vs.

R.Elangeswari

... Respondent/Respondent/
Complainant

PRAYER: Criminal revision filed, under Sections 397 and 401 Cr.P.C., to call for the records from the learned Lower Court and to set aside the final order passed by the learned Judicial Magistrate, Thiruvaiyaru, in Cr.M.P.No.156/2017 in C.C.No.113/2016, wherein the Court had dismissed the petition of the revision petitioner under Sections 244 and 245 of Cr.P.C.

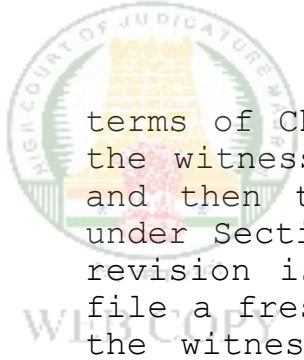
For Petitioner : Mr.B.Eswaran

O R D E R

Elangeswari filed a private complaint in C.C.No.113 of 2016, before the learned Judicial Magistrate, Thiruvaiyaru, against Kalaivili, alleging that she has committed offence under Sections 294(b) and 506(ii) I.P.C. The learned Judicial Magistrate recorded the sworn statement of the complainant and two witnesses and thereafter, issued process to the accused. On appearance, the accused filed Cr.M.P.No.156 of 2017 in C.C.No.113 of 2016, under Sections 244 and 245 Cr.P.C., for discharge, which has been dismissed by the learned Judicial Magistrate, by order dated 12.12.2017. Challenging the same, the accused is before this Court.

2. Heard the learned counsel for the petitioner / accused.

3. At the outset, the petition filed by the petitioner / accused under Sections 244 and 245 Cr.P.C., immediately on appearance before the Trial Court is not maintainable. Since the punishment for the offence under Section 506(ii) I.P.C., is imprisonment for seven years, it is a warrant-case instituted otherwise than on Police report and the trial should be conducted in



terms of Chapter XIX-B, under which, the complainant should examine the witnesses under Section 244 Cr.P.C., after the accused appears and then the accused gets an opportunity to plead for discharge under Section 245 Cr.P.C. In such view of the matter, the criminal revision is dismissed with liberty to the petitioner / accused to file a fresh discharge application under Section 245 Cr.P.C., after the witnesses of the complainant are examined under Section 244 Cr.P.C. Consequently, connected miscellaneous petition is closed.

Sd/-

Assistant Registrar (CS-I)

/True Copy/

Sub Assistant Registrar

To:

The Judicial Magistrate,
Thiruvaiyaru.

+ 1 CC TO Mr.V.MALAIYENDRAN, ADVOCATE IN SR No. 41873

KRK

TE/SKN-RSK/SAR-1 : 23/01/2018 : 2P/3C

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