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BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

DATED : 21.08.2018

CORAM:

THE HONOURABLE DR.JUSTICE G.JAYACHANDRAN
Crl.R.C(MD)No.479 of 2018

M.Ramalakshmi : Petitioner/Petitioner/
Defacto Complainant

Vs.

1.State Rep. by
The Sub Inspector of Police,
All Women Police Station,
Tirunelveli Rural,
Tirunelveli District.
(Crime No.16 of 2012) : 1st Respondent/1st Respondent/
Complainant

2.Murugan

3.Santhi

4.Petchimuthu : Respondents 2 to 4/
Respondents 2 to 4/Accused Nos.1 to 3

PRAYER: Revision filed under Section 397 read with Section 401 of the Code of Criminal Procedure, to call for records and set aside the order dated 12.01.2018 passed in R.C.S.No.08 of 2018 and Crime No.16 of 2012 on the file of the learned Judicial Magistrate No.III, Tirunelveli, Tirunelveli District.

For Petitioner : Mr.A.Thiruvadi Kumar
For R-1 : Mr.A.Robinson,
Government Advocate (crl.side).

ORDER

This Criminal Revision case is filed against the order dated 12.01.2018 passed in R.C.S.No.08 of 2018 in Crime No.16 of 2012 on the file of the Judicial Magistrate No.III, Tirunelveli, Tirunelveli District.

2.Heard the learned counsel appearing for the petitioner and the learned Government Advocate (crl.side) appearing for the first respondent.

3.The revision petitioner herein has filed a complaint against the respondents 2 to 4, alleging dowry harassment and bigamy. Based on the complaint, the first respondent has investigated the matter and filed a closure report as 'mistake of



fact'. According to the final report, due to some extra marital affairs with the husband of the third respondent, the petitioner herein has got separated from her husband, who is the second respondent. The petitioner herein and husband of the third respondent have eloped and therefore, the third respondent lodged a complaint against the revision petitioner and later the said complaint was closed after recording compromise. The third respondent and her husband reunited and are living together. The revision petitioner herein, who got separated from her husband/second respondent and want to live with her paramour, has lodged a complaint to settle score. Aggrieved by the closure report, the revision petitioner herein has filed a protest petition. The trial Court has rejected the same vide impugned order, dated 11.02.2018.

4.The learned counsel for the petitioner would submit that a specific complaint has been lodged by the petitioner alleging that the second respondent herein, her husband namely Murugan, had demanded and received dowry on two occasions from her father. Instead of investigating the complaint by recording the statements of her parents, the Investigation Agency has gone tangent and recorded the statements of other persons pertaining to the alleged elopement and illicit relations between the revision petitioner and the husband of the third respondent. Thus, the prime part of investigation, which is supposed to be done by the Investigation Agency, regarding the demand of dowry and acceptance of dowry, has not been properly investigated. Further, under the Dowry Prohibition Act, there is a specific provision that any complaint about the dowry demand, has to be initially enquired by the Social Welfare Officer and the said Social Welfare Officer after her enquiry to submit a report and she should also assist the prosecution in the investigation. In this case, though the complainant/revision petitioner has made a specific allegation of dowry demand and acceptance, the Investigation Agency has not sought the assistance of the Social Welfare Officer. Without any enquiry or report by the Social Welfare Officer, the investigation has proceeded lopsidedly and has filed a closure report.

5.This Court finds force in the said submission. However, since the prosecution has already filed a closure report without getting report from the Social Welfare Officer, now giving a direction to the prosecution to get assistance of the Social Welfare Officer, to examine the parents of the revision petitioner and proceed further, is not going to help the revision petitioner herein to ventilate her grievance. Instead, as the law contemplates, she shall resort to private complaint procedure by examining the witnesses on her side. If the Court is of the view that a case is made out, it can issue summons to the accused persons and proceed further. For the said purpose, the protest petition may be treated as 'private complaint' by the trial Court and the same shall be proceeded in accordance with law.



6. With this direction, this criminal Revision Case is disposed of.

Sd/
Assistant Registrar (CrI Side)

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Sub Assistant Registrar (CS-II)

To

1. The Judicial Magistrate No. III,
Tirunelveli District.

2. The Sub Inspector of Police,
All Women Police Station,
Tirunelveli Rural,
Tirunelveli District.

3. The Additional Public Prosecutor,
Madurai Bench of Madras High Court,
Madurai.

+1cc to Mr. A. THIRUVADI KUMAR, Advocate, SR.No.79811

CrI.R.C (MD) No.479 of 2018
21.08.2018

CP

KK/RP/SAR-2/03.10.2018/3P-5C