

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 18.02.2019

CORAM:

THE HON'BLE **MR.JUSTICE P.VELMURUGAN**

Crl.R.C.No.1082 of 2018

and

Crl.M.P.No.12616 of 2018

1.Arul Kumar
2.Saraswathi

... Petitioners

Vs.

State by
The Inspector of police
All Women Police Station
Namakkal

.. Respondent

PRAYER: This Criminal Revision Case has been filed Under Section 397 r/w 401 of Cr.P.C to call for the records and set aside the order dated 10.08.2018 made in C.M.P.No.10 of 2018, on the file of the Judicial Magistrate Additional Mahila Court at Namakkal.

For Petitioners : Mr. S.Ananthanarayanan, Sr.Counsel
for M/s.S.M.Nandhie Devhan

For Respondent : Mr.R.Surya Prakash
Government Advocate (Crl.Side)

ORDER

This Criminal Revision Case has been filed by the petitioners Under Section 397 r/w 401 of Cr.P.C to call for the records and set

aside the order dated 10.08.2018 made in C.M.P.No.10 of 2018, on the file of the Judicial Magistrate Additional Mahila Court at Namakkal.

2.The respondent police filed a case against the Revision petitioners for the offences under Section 498 A and 506(ii) IPC. After registering the case, they filed a charge sheet before the Judicial Magistrate No.1, Namakkal in C.C.No.404 of 2015 and subsequently it was transferred to Judicial Magistrate Additional Mahila Court at Namakkal and the case was renumbered as C.C.No.21 of 2018.

3.The Revision petitioners filed a petition in C.M.P.No.10 of 2018 under Section 239 of Cr.P.C. before the Judicial Magistrate Additional Mahila Court at Namakkal to discharge them from the offences. The learned Magistrate after considering the facts and circumstances of the case found that there is prima facie case made out against the petitioner, accordingly, dismissed the above said petition. Challenging the said order, the revision petitioners are before this Court.

4.It is the case of the prosecution that the first petitioner and the defacto complainant are the husband and wife. Petitioners demanded dowry in the year 2013 on the instigation of A2 and he has also sent the defacto complainant to her parents house at Theni and thereafter

on the instigation of his mother, A1 had beaten the defacto complainant and harassed her. Hence a complaint had been lodged as against the petitioners.

5.The learned counsel for the Revision Petitioners would submit that all the allegations are only against A1. As far as A2 is concerned, she is the mother in law of the defacto complainant, aged about 70 years. She is the retired teacher and from the reputed family. His son got married with the defacto complainant and she never lived with A1 and the defacto complainant. All the prosecution witnesses are the hear say witnesses and there is no eye witness and there is no prima facie case found as against A2. The learned Magistrate failed to consider these facts, accordingly, the same warrants interference of this Court. Hence this Revision.

6.The learned Government Advocate (Crl. Side) appearing for the State would submit that the prosecution witnesses have clearly stated the involvement of A1 and A2 in this case. After the marriage of A1 and defacto complainant, they lived together as a joint family. During that time they demanded dowry from the defacto complainant and tortured her and caused cruelty to her. There is a prima facie

case against both A1 and A2 the Revision Petitioners herein. Therefore, the learned Magistrate has rightly dismissed their petition. The same does not warrant any interference. Accordingly, prays for dismissal of the same.

7. Heard the learned counsel for the petitioner as well as the learned Government Advocate (Crl. Side). Perused the records.

8. The Revision petitioners are A1 and A2. A1 is the husband of the defacto complainant. A2 is the mother in law of the defacto complainant. Allegations against the petitioners are that both of them have jointly demanded dowry and also harassed her. Subsequently, A2 used to give ill advise to A1 to harass the defacto complainant and hearing the words of A2, A1 also demanded dowry and caused cruelty and harassed his wife. There are allegations against A1 also. It is well settled proposition in law while deciding petition under Section 239 of Cr.P.C, the Court has to see all the records filed by the prosecution under Section 173 of Cr.P.C. and not the defence taken by the accused.

9. In this case also on reading of entire records submitted by the

prosecution under Section 173 of Cr.P.C. the statement of witnesses and other materials to show there are prima facie allegations as against the revision petitioners to proceed further. When the petitioners lived together as a joint family, both A1 and A2 jointly demanded dowry. A1 caused cruelty and harassed the defacto complainant on ill advice of his mother. The question as to whether the petitioners jointly demanded dowry or A2 induced her son to cause cruelty and the same should be decided only after recording the evidence during the trial and not at this stage. The probative values of the evidence need not be gone into at this stage.

10.Hence, this court does not find any infirmity in the order passed in C.M.P.No.10 of 2018 in C.C.No.21 of 2018 by the learned Judicial Magistrate Additional Mahila Court at Namakkal. There is no merit in this Revision Case. Accordingly, this Criminal Revision Case stands dismissed. Consequently, connected miscellaneous petition is closed.

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18.02.2019

Index:yes/no

Internet:yes

Speaking order/Non-speaking order

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P.VELMURUGAN, J.
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To.

1.The Judicial Magistrate Additional
Mahila Court, Namakkal.

2.The Inspector of police
All Women Police Station
Namakkal

3.The Public Prosecutor
High Court of Madras
Madras 600 104



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