

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 18.02.2019

CORAM

THE HONOURABLE MR. JUSTICE P.VELMURUGAN

Crl.R.C.No.328 & 329 of 2018

and

Crl.MP.Nos.4051 & 4052 of 2018

Karnan

...Petitioner in Crl.Rc.No.328 of 2018

1.Unnamalai

2. Kumar

...Petitioners in Crl.Rc.No.329 of 2018

Vs

State represented by
The Inspector of Police,
All Woman Police Station,
Thirupathur.

..... Respondent in both the cases

COMMON PRAYER: Criminal Revision Cases have been filed under Article 397 r/w 401 of Criminal Procedure Code, to set aside the order date 06.09.2017 passed in C.M.P.Nos.298 & 297 of 2017 respectively in C.C.No.115 of 2013 on the file of the learned Judicial Magistrate No.II, at Thiruppathur.

For Petitioner : Mr.L.Rajendran (Both cases)

For Respondent : Mr.R.Ravichandran
Government Advocate (Both cases)

COMMON ORDER

These Criminal Revision Cases are filed under Section 397 r/w 401 of Cr.P.C., to set aside the order dated 06.09.2017 passed in C.M.P.No.298 of 2017 in C.C.No.115 of 2013 on the file of the learned Judicial Magistrate No-II, Thiruppathur.

2. The respondent police registered a case against the Petitioners herein for the offences under Sections 498(A) and 506(i) of IPC in Crime No.10 of 2011. After completing the investigation, the respondent police laid a charge sheet against the revision petitioners/accused before the learned Judicial Magistrate No-II, Thiruppathur, which was taken on file in C.C.No.115 of 2013.

3. During the pendency of the case in C.C.No.115 of 2013 the petitioners filed a petition under Section 239 of Cr.P.C., to discharge them for the offences alleged to have committed under Sections 498(A), 506(i) of IPC and Section 4 of Dowry Prohibition Act and the same was dismissed by the learned Judicial Magistrate No-II, Thiruppathur, on 06.09.2017 in

C.M.P.No.298 of 2017 in C.C.No.115 of 2013 and the main case is pending in the year 2013. Against the order of the learned Judicial Magistrate-II, Thirupathur in C.M.P.No.298 of 2017 dated 06.09.2017, the petitioners have filed the present revisions before this Court.

4. The learned counsel appearing for the petitioners would submit that there is no prima facie materials to prosecute the petitioners and the respondent is taking haste steps to examine the witnesses in C.C.No.115 of 2013 against the petitioners. If he is succeed in his attempt, the petitioners will be put to great hardship and it will affect the reputation of the petitioner. So, the learned counsel prays this Court to set aside the order passed in the learned Judicial Magistrate No.II, at Thiruppathur, dated 06.09.2017 in C.M.P.No.298 of 2017 and discharge the petitioner from the charge in C.C.No.115 of 2013.

5. The learned Government Advocate (Crl. side) appearing for the respondent would submit that both the petitioners are unwarranted and in discharge petitions, the petitioner must establish that there are no prima facie case made out against these petitioners. In this case, the material produced by the prosecution under Section 173 of Cr.P.C., reveals prima facie case. Since, there is a prima facie case made out against these petitioners. These Criminal Revision cases are liable to be dismissed.

6. Heard both sides and perused the records.

7. It is well settled law that at the time of framing charges the Court has to see the materials produced by the prosecution under Section 173 of Cr.P.C., but not defence taken by the accused. In this case, on a perusal of the entire materials produced by the prosecution under Section 173 of Cr.P.C., prima facie case is made out against the petitioners to proceed the case further. The defence taken by the petitioners need not be looked into at this stage. Further, probative value of the materials need not be gone into at this stage and the same may be considered at the time of deciding the case after examining the witnesses. In this Case, the police report and statements recorded under Section 161 Cr.P.C., clearly alleges that the petitioners along with other accused demanded dowry from the defacto complainant and thereby harassed the witness in various occasion specifically on 10.04.2011 and on 14.08.2011. Whether the materials placed before the Court are enough for strong grounds for conviction or not, is immaterial to decide the application for discharge.

8. Finally, on considering the averments and the records filed by the prosecution, this Court finds that there is a prima facie case made out against these petitioners to proceed further. Therefore, there is no merits to allow these revision cases. Accordingly, the present Criminal Revision Cases are dismissed. Consequently, connected Criminal Miscellaneous Petitions are closed.

Sd/-
Assistant Registrar

//True Copy//

Sub Assistant Registrar

sbn

To

1. The Judicial Magistrate No-II,
Thiruppathur.

2.The Inspector of Police,
All Woman Police Station,
Thirupathur.

3.The Public Prosecutor,
High Court, Madras.

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

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