

IN THE HIGH COURT OF JUDICATURE AT MADRAS

Dated : 25.02.2019

CORAM:

THE HONOURABLE MR. JUSTICE P.VELMURUGAN

Crl.R.C.No.343 of 2018

Krishnamoorthy ...Petitioner/Accused

Vs.

State rep. By  
Inspector of Police,  
Yarcaud Police Station,  
Salem District.  
Crime No.52/2016 ...Respondent/complainant

The Criminal Revision filed under Section 397 read with 401 of Code of Criminal Procedure, to set aside the order dated 24.01.2018 made in Crl.M.P.No.1530 of 2017 in S.C.No.279 of 2017 passed by the learned Session Judge, Mahila Court, Salem.

For Petitioner : Mr.C.Ramkumar

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

ORDER

The criminal revision has been filed against the order dated 24.01.2018 made in Crl.M.P.No.1530 of 2017 in S.C.No.279 of 2017 by the learned Sessions Judge, Mahila Court, Salem.

2 The facts leading to prefer this revision are as follows:

The petitioner is the accused in S.C.No.279 of 2017. The respondent police registered a case against the petitioner and after investigation, filed a charge sheet under Sections 120 (b), 147, 148, 342, 364 A, 384, 379, 452 and 506 (ii) of IPC before the learned Sessions Judge, Mahila Court, Salem. Pending the above case, the petitioner/Accused had filed miscellaneous petition in Crl.M.P.No.1530 of 2017 under Section 227 of Cr.P.C, before the learned Sessions Judge, Mahila Court, Salem seeking

to discharge him from the above Sessions Case. The learned Sessions Judge, Salem, after hearing both sides, dismissed the petition by order dated 24.01.2018 observing that prima facie, there are allegations made out against the petitioner/Accused.

3 Aggrieved against the above said order dated 24.01.2018, the petitioner/accused has preferred the present revision before this Court.

4 The learned counsel for the petitioner would submit that the sessions case arose based on the loan transaction and deposit of title deeds by the defacto complainant land, but the Sessions case was raised with the allegation of kidnapping and the sections for the offences shown are not relevant to the actual allegations. Further he submitted that no documents recovered from the petitioner and produced before the lower Court. No gold ornaments seized from the accused. No car recovered from the accused. There is no evidence or materials for the charges under Sections 120 (b), 147, 148, 342, 364 (A), 384, 379, 452 and 506 (ii) of IPC. Hence, this petition has to be allowed.

5 The learned Government Advocate (Crl.Side) appearing for the respondent/police would submit that there is enough material to proceed against the revision petitioner. The petitioner voluntarily himself gave confession statement before the respondent, he had admitted his offence and the co-accused were involved in other cases and they are habitual offenders. The learned Sessions Judge, having found that there is a prima facie allegation made out against this petitioner, has dismissed the discharge petition. There are no merits in the revision to set aside the order passed by the learned Sessions Judge.

6 Heard the learned counsel for the petitioner and the learned Government Advocate (Crl.Side) appearing for the respondent and perused the materials placed before the Court.

7 A perusal of the records reveal that the respondent police has registered a case and after completion of the investigation, charge sheet was filed before the learned Sessions Judge, Mahila Court, Salem. The learned Sessions Judge found that there is a prima facie allegation made out against this petitioner and dismissed the petition filed by the petitioner seeking discharge from S.C.No.279 of 2017.

8. It is well settled proposition of law that while considering petition under Section 227 of Cr.P.C. seeking discharge, the Court has to see the documents filed by the prosecution under Section 173 of Cr.P.C. before the Court. If upon consideration of the record of the case and the documents submitted therewith, and after hearing the submissions of the

accused and the prosecution in this behalf, the learned Judge considers that there is not sufficient ground for proceeding against the accused, he shall discharge the accused and record his reasons for so doing. If, after such consideration and hearing as aforesaid the Judge is of the opinion that there is a ground for presuming that the accused has committed an offence which is exclusively triable by the Court, he shall form a charge in writing against the accused.

9 Hence this Court does not find any reason to interfere with the order dated 24.01.2018 passed by the learned Sessions Judge, Mahila Court, Salem. In the result, the criminal revision is dismissed. The revision filed by the accused deserves to be dismissed.

sd/

ASSISTANT REGISTRAR

/TRUE COPY/

SUB-ASSISTANT REGISTRAR

dh

To

1. The Sessions Judge,  
Mahila Court, Salem.
2. The Inspector of Police,  
Yarcaud Police Station,  
Salem District.
3. The Public Prosecutor,  
High Court of Madras.
4. The Section Officer,  
Criminal Section/Records  
High Court, Madras

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GJ (CO)

TA-10/06/2019