

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 11.02.2019

CORAM

THE HONOURABLE MR.JUSTICE P.VELMURUGAN

Crl.R.C.No.740 of 2018
and
Crl.M.P.No.8558 of 2018

1.Balakrishnan

2.Leelavathi

3.Vasanthi

4.Suresh

... Petitioners/Accused (2 to 5)

Vs

1.State rep.by
The Inspector of Police,
Shevapet Police Station.
Crime No.162 of 2017

2.R.Nagaraj ... Respondents
(2nd respondent impleaded as per order in Crl.M.P.No.443/2019
in Crl.R.C.No.740/2018 dated 25.01.2019)

PRAYER: Criminal Revision filed under Section 397 and 401 of Criminal Procedure Code, to call for the records in Crl.M.P.No.570 of 2018 in S.C.No.142 of 2018 on the file of Sessions Judge, Mahila Court, Salem dated 31.05.2018 and set aside the same.

For Petitioners : Mr.R.Sankarasubbu

For Respondents : Mr.R.Surya Selvaraj, for R1
Government Advocate (Crl.side)
Mr.Deivanandam, for R2

O R D E R

This revision has been filed against the order dated 31.05.2018 passed by the learned Sessions Judge, Mahila Court, Salem in CrI.M.P.No.570 of 2018.

2.The case was registered against the revision petitioners and other persons under Sections 498(A), 304(B), 324, 406 of IPC and Section 4 of Dowry Prohibition Act. The respondent police investigated the matter and filed the charge sheet and the same was taken up on file and Magistrate committed the case to the Sessions Judge, Mahila Court. Then the Mahila Court has taken up the case on file as S.C.No.142 of 2018. The revision petitioners had filed a petition under Section 227 of Cr.P.C., to discharge them from the case as there is no ground to frame the charges against them. The learned Sessions Judge, after hearing the arguments and perusing the records, dismissed the petition stating that there is a ground for presuming that the accused have committed the offences as alleged against them. Feeling aggrieved against the order, A2 to A5 have filed the present revision petition.

3.The learned counsel for the petitioners would submit that A1 is the husband of the victim, A2 is the Father-in-law, A3 is the mother-in-law, A4 is the sister-in-law and A5 is the husband of A4. There is no allegation against A2 to A5 and serious allegation is levelled against A1. Since A1 was doing business, the father-in-law helped A1 voluntarily and gave money to develop the business for the welfare of his daughter and son-in-law. Even the father of the deceased in his statement has not stated any allegations against the revision petitioners, all the witnesses have spoken about the involvement of A1. The revision petitioners A4 and A5 are residing somewhere else and they are not residing along with A2 and A3 and there is no prima-facie materials are available to frame the charge against these petitioners. Therefore, the learned Judge failed to consider it and dismissed the petition which warrants interference.

4.The learned counsel for the State/first respondent would submit that in the FIR, report of the RDO enquiry, the first respondent's inquest report found that the panchayathars have spoken about the involvement of the revision petitioners and sufficient materials to connect the accused persons with the crime. The learned trial Judge analysed and discussed the matter elaborately and found that there was prima-facie case made out to frame the charge against these petitioners.

5.The learned counsel for the defacto complainant would submit that all the witnesses during the investigation have clearly spoken about the involvement of the other accused persons/revision petitioners A2 to A5. Even the inquest report reveals that there are prima-facie allegations levelled against the revision petitioners. Therefore, no ground is available to interfere with the order passed by the Sessions Judge.

6.Heard the rival submissions made on both sides and perused the materials available on record.

7.The allegations against these revision petitioners are that the deceased and A1 are husband and wife, and due to loss in business, A1 used to demand dowry through his father-in-law. The other accused/along with A1 have harassed the deceased and also helped A1 to develop the business and they further harassed the deceased on the ground of not having an issue. Further A1 has created drama that the deceased made an attempt to consume poison and played a drama that he also consumed poison, only after the death of the deceased, A1 realised that his wife had really consumed the poison. In the investigation, there is an allegation of demand of dowry and harassment made by the husband of the victim and father-in-law and sister-in-law and husband of A4. when there is prima-facie case is made out, the Court can frame the charge.

8.It is well settled proposition while deciding the petition under Section 227 of Cr.P.C., the Court has to see as to whether prima-facie case has been made out against the accused or not, to find out the same, the Court has to see the documents filed by the prosecution under Section 173 of Cr.P.C., not on the defence taken by the accused. Probative value of the evidence can be considered after the trial not at this stage. So in this case also, on a reading of the material placed by the prosecution under Section 173 of Cr.P.C., there are prima-facie materials are available to frame charges against these revision petitioners/accused and proceed the case further against them, this Court finds valid grounds to frame the charges and does not find any sufficient grounds to discharge the petitioners from the charges. Therefore, under these circumstances, the learned Sessions Judge has rightly dismissed the petition for discharge and the defence taken by the revisions petitioners shall be considered at the time of trial, after recording evidence and not at this stage. This Court finds no merit in the revision filed by the petitioners herein.

9.The criminal revision stands dismissed accordingly.
Consequently, connected miscellaneous petition is closed.

Sd/-
Assistant Registrar(CCC)

//True copy//

Sub Assistant Registrar

AT

To

- 1.The Sessions Judge, Mahila Court, Salem.
- 2.The Inspector of Police, Shevapet Police Station.
Crime No.162 of 2017

Copy To
The Section, Officer. Ciminal Section, High Court, Madras.

+1cc to Mr.R.Sankarasubbu, Advocate SR.No.12171

+1cc to Mr.M.Deivanandam, Advocate SR.No.11997

Cr1.R.C.No.740 of 2018
and
Cr1.M.P.No.8558 of 2018

GP(CO)
GMY(28/03/2019)

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