

IN THE HIGH COURT OF JUDICATURE AT MADRAS

Dated : 05.02.2019

CORAM:

THE HONOURABLE MR. JUSTICE P.VELMURUGAN

Crl.R.C.No.745 of 2018

and

Crl.M.P.No.8610 of 2018

1. Jayanthi

2. Haribabu

3. Chandrasekar

4. ThilakavathyPetitioner

Vs.

State: rep. by its

The Assistant Commissioner of Police,
West Range,

Pallapatty Police Station,
Salem.

(Crime No.7 of 2012)

....Respondent

The Criminal Revision Case filed under Section 397 read with 401 of Code of Criminal Procedure to set aside the order dated 16.04.2018 made in Crl.M.P.No.209 of 2018 in S.C.No.8 of 2018 on the file of the learned Sessions Judge, Mahila Court, Salem and thereby discharge the above petitioners (Accused A3 to A6) in S.C.No.8 of 2018 in Crime No.7 of 2012 on the file of the learned Sessions Judge, Mahila Court, Salem.

For Petitioners: Mr.Dr.R.Govri

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

O R D E R

The above criminal revision case has been filed to set aside the order dated 16.04.2018 in Crl.M.P.No.209 of 2018 in S.C.No.8 of 2018 on the file of the learned Sessions Judge, Mahila Court, Salem and thereby discharge the above petitioners (Accused A3 to A6) in S.C.No.8 of 2018 in Crime No.7 of 2012, on the file of the learned Sessions Judge, Mahila Court, Salem.

2. A complaint was lodged by the defacto complainant, against the petitioners/accused before respondent Police. On the basis of the complaint, a case was registered by the respondent police in Crime No.7 of 2012 against the revision petitioners and others. It appears that the respondent police conducted a thorough investigation into the complaint and finally found that there was substance in the complaint and therefore a report was filed on 20.12.2012 by the respondent police against the revision petitioners and others for offence under Sections 409 (A), 304(B) IPC and Section 5 of Dowry Prohibition Act. When the case was pending before the learned Mahila Court in S.C.No.8 of 2018, the Revision Petitioner herein filed a petition under Section 227 of Cr.P.C. to discharge the petitioners/Accused 3 to 6 from these offences on the ground that the first petitioner is sister-in law of the deceased and second petitioner is her husband and they are living in Salem with school going children and his parents. The third petitioner is younger sister-in-law's husband and the fourth petitioner is younger sister-in-law of the deceased. They are living at Erode.

3. The learned counsel would submit that there is no evidence to show that the petitioners ever demanded any dowry from the deceased. Even as per the prosecution case, the defacto complainant has stated that only A1 and A2 demanded Rs.10,00,000/- from the deceased and they only sent out her from the matrimonial home. The petitioners were not living with the deceased. They are falsely implicated in this case. There is no merit in the order passed by the trial Court, which warrants interference. Therefore, the petitioners have to be discharged from the above offences.

4. The learned Government Advocate (Criminal Side) would submit that the defacto complainant is father of the victim. He has clearly narrated in his statement recorded under Section 161 (3) Cr.P.C. that, A1 and A2 harassed the deceased and demanded Rs.10 lakhs as dowry and also these revision petitioners have also harassed the deceased. The trial Court has considered all the facts and there are sufficient grounds to convict the accused. Therefore, this Criminal Revision Case may be dismissed.

5. This Court has considered the rival submissions made by the learned Counsel appearing for the petitioner as well as the learned Government Advocate (Criminal Side) for the respondents and perused the materials available on record.

6. A complaint was filed by the defacto complainant/father of the deceased against these revision petitioners and others for offence under Sections 409(A), 304(B) IPC and Section 5 of Dowry Prohibition Act and the respondent police investigated the matter and filed charge sheet before the learned Judicial

Magistrate - II, Salem and the same was taken on file in S.C.No.8 of 2018, before the learned Sessions Judge, Mahila Court, Salem. The trial Court found that there are enough materials and also grounds against, not only the husband but also these revision petitioners.

7. On reading of the materials placed by the respondent police and also especially statement recorded by the police under Section 161(3) of Cr.P.C. during enquiry from the defacto complainant, it is seen that due to harassment of all the accused persons only, the victim died. There is an allegation against these revision petitioners also. The law in this regard is well settled. According to the Section 227 of Cr.P.C.- ''upon consideration of the record of the case and the documents submitted therewith, and after hearing the submission of the accused and the prosecution in this behalf, the Judge considers that there is not sufficient ground for proceeding against the accused, he shall discharge the accused.''

If after such consideration and hearing as aforesaid, the Judge is of the opinion that there is ground for presuming that the accused has committed an offence, the Court can frame the charge and proceed further.

8. Therefore, on reading of the materials and records filed by the prosecution under Section 173 Cr.P.C., this Court finds that there is a prima facie case against these revision petitioners and there is a ground to proceed further against these petitioners. Under these circumstances, there is no sufficient grounds and no merits and valid reasons to allow this revision. Further, this Court does not find any perversity or infirmity in the order passed by the trial Court.

9. The Criminal Revision Case stands dismissed, accordingly. Consequently, connected miscellaneous petition is also closed.

Sd/-
सत्यमेव जयते
Assistant Registrar(CS IV)

//True Copy//

Sub Assistant Registrar

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To

1.The Sessions Judge,
Mahila Court,
Salem.

2.The Assistant Commissioner of Police,
West Range,
Pallapatty Police Station,
Salem.

3.The Public Prosecutor,
High Court,
Madras-600 104.

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and
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BS (CO)

rrs 18/03/2019



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