

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 27.03.2019

CORAM:

THE HONOURABLE MR. JUSTICE P.VELMURUGAN

Crl.R.C.No.1342 of 2018

and

Crl.M.P.Nos.15719 and 15720 of 2018

1. Saroja
2. Sathyakirthi
3. Sathyaraj
4. N.Sathyabama
5. R.Sathyapriya
6. S.Venkatesan
7. S.Ragunathan
8. M.Pushpavalli
9. U.Baskaran

...Petitioners/Accused 3 to 11

Vs.

The Inspector of Police,
W-23, All Women Police Station,
Royapettai.
Cr.No.1 of 2014.

...Respondent/Complainant

The Criminal Revision filed under Section 397 read with 401 of Code of Criminal Procedure, to set aside the order dated 19.09.2018 passed by the learned XVIII Metropolitan Magistrate, Saidapet, Chennai in Crl.M.P.No.3657 of 2015 in C.C.No.2165 of 2015, direct that the petitioners be discharged in the said case.

For Petitioners : Mr.A.Raghunathan

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

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O R D E R

The present criminal revision case has been filed to set aside the order dated 19.09.2018 passed by the learned XVIII Metropolitan Magistrate, Saidapet, Chennai in Crl.M.P.No.3657 of 2015 in C.C.No.2165 of 2015.

2. Based on the complaint given by the defacto complainant, the respondent police registered a case

against the revision petitioner and two others for the offence under Sections 498(A) and 406 of IPC. After investigation, the respondent police filed charge sheet against these revision petitioners before the learned XVIII Metropolitan Magistrate, Chennai and the same was taken on file in C.C.No.2165 of 2015. During the pendency of the Case, the revision petitioners and other accused viz., A4 to A11 have filed a petition in M.P. No.3657 of 2015 seeking to discharge them from the above offences. The learned Magistrate, after adverting to various materials, had come to definite conclusion that there was prima facie material to proceed against all the accused, and dismissed the petition. As against the order dated 19.09.2018, the revision petitioners have filed the present revision before this Court.

3. The learned counsel appearing for the revision petitioners would submit that the first accused is the husband, the second accused is the father-in-law and the third accused is the mother-in-law of the defacto complainant. The revision petitioners have arrayed as A4 to A11 in the charge sheet and they are nothing to do with the offence. There is no allegation against these revision petitioners. Only the allegation leveled against the husband, father-in-law and mother-in-law, not against these revision petitioners. These revision petitioners were not residing with the husband of the defacto complainant. A1 is residing in USA and other accused were residing in different locality. The only allegation against the A2 is demanded jewels and documents. Absolutely there is no allegation against these petitioners and they are not residing with the defacto complainant and they are only relatives of the husband of the defacto complainant. The prosecution has not produced any sufficient materials to prove the allegation against these petitioners. During the discharge petition, the Court has to see the grounds to proceed the case further. But there is no grounds against these petitioners are liable to be discharged. In this case, there is no prima facie case made out and he has relied on the agreement between the defacto complainant and her husband/A1, if the averments would not have any offence as stated by the defacto complainant. Therefore, the learned Magistrate failed to consider all these facts and passed the order. Absolutely there is no allegation against these revision petitioners and cause of action arose at Tanjore not in Chennai. Therefore, the Court has no jurisdiction to proceed the case. Hence, the learned counsel prays to set aside the order passed by the learned Metropolitan Magistrate which warrants interference.

4. The learned Government Advocate (Criminal Side) appearing for the State would strongly object the contention raised by the learned counsel for the petitioners and there is prima facie allegation made out against these revision petitioners and P.W.1/defacto complainant is wife and A1 is husband, A2 is the father in law and A3 is the mother in law and other accused are relatives of the A1. Even from the date of marriage, they demanded dowry and also harassed her in various manner, not only at Tanjore and Chennai, other various places also. The defacto complainant went to USA with her husband, she was subjected to the cruelty by the A1. The complaint itself shows that the allegation leveled against not only A1 to A3, but also against the present petitioners also. After registering the case, the respondent police investigated the matter and laid charge sheet against all the accused. These revision petitioners are also shown in the Charge sheet as A4 to A11. It is well settled proposition of law that while dealing with the petition under 239 Cr.P.C., this Court need not consider the defence taken by the accused and the probative value of the evidence need not be gone into at this stage. Whatever the defence taken by the revision petitioner/accused and document relied by the petitioners/accused can be looked into at the time of trial not at this stage. The Court has to see whether there is a prima facie incriminating material against the revision petitioners to proceed with the case.

5. Heard the rival submissions made by the learned senior counsel appearing for the petitioner as well as the learned Government Advocate (Crl. Side) and perused the materials placed on record.

6. On reading of the complaint and also statement recorded by the prosecution under Section 161 Cr.P.C. From the defacto complainant, she has categorically narrated that the allegation against her husband, mother-in-law, father-in-law and also the present revision petitioners, not only at Tanjore, they came to Chennai also and demanded the defacto complainant and harassed her and also caused cruelty. It shows that there is a prima facie material to frame the charge and proceed the case against these petitioners. When the cause of action arisen more than one places to take cognizance of the offence and any one of the Court has got the jurisdiction.

7. On a reading of the report filed by the prosecution under Section 173 Cr.P.C., this Court finds that there is a prima facie case made out against these petitioners to proceed with the case. The question of mens rea cannot be

decided by this Court in this revision. The same could be determined only after elaborate trial, subjecting witnesses to examination and cross-examination. Under these circumstances, the case referred to by the learned counsel for the revision petitioners is not applicable in this revision. This Court does not find any merit in the revision and no merit in this revision.

8. From the above discussion, the facts would disclose the involvement of the petitioners and it is not open to the revision petitioners to seek discharge on the grounds stated by them in this revision. Once there is a finding of fact in that regard, about the existence of prima facie material against the petitioners, this Court is unable to appreciate as to how the discharge petition could be entertained and as to how the present revision case can be entertained further. On the whole, this Court does not find any infirmity or perversity in the order dated 19.09.2018 passed by the learned XVIII Metropolitan Magistrate, Saidapet, Chennai in M.P.No.365 of 2015 in C.C.No.2165 of 2015, hence the present criminal revision case deserves to be dismissed. Accordingly, the Criminal Revision Case is dismissed. Consequently connected miscellaneous petition is closed.

Sd/-

Assistant Registrar(CS)

//True Copy//

Sub Assistant Registrar

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To

1. The XVIII Metropolitan Magistrate,
Saidapet, Chennai
2. The Public Prosecutor,
High Court of Madras.
3. The The Inspector of Police,
W-23, All Women Police Station,
Royapettai.

+1cc to Mr.R.Sathish kumar , Advocate SR.No. 29425

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BP

A.SK(10/10/2019)