



BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

Date of Reservation	16.04.2019
Date of Order	08.07.2019

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THE HONOURABLE MRS. JUSTICE **T.KRISHNAVALLI**

Crl.RC.(MD)No.86 of 2019

Ethirajulu Choudri

: Revision Petitioner/
Complainant

Vs.

P.Sumathi

: Respondents/Accused

Prayer: Criminal Revision is filed under Section 497 r/w 401 of Criminal Procedure Code against the order passed in Cr.M.P.No.9489 of 2018, dated 09.01.20199 by the Judicial Magistrate No.II, Virudhunagar, dismissing the private complaint filed by the petitioner/complainant against the accused for the offences punishable under Section 499 and 500 IPC.

For Petitioner

: Mr.S.Ramasamy

For Respondent

: Mr.A.Prasana Rajadurai
for Mr.M.Alagarsamy

O R D E R

This Criminal Revision is directed the order passed in Cr.M.P.No.9489 of 2018, dated 09.01.20199 by the Judicial Magistrate No.II, Virudhunagar, dismissing the private complaint filed by the petitioner/complainant against the accused for the offence punishable under Sections 499 and 500 IPC.

2.The short facts of the case is that the marriage between the son of the petitioner/complainant and the respondent/accused took place 09.09.2013 at Sattur Sri Venkitachalapathy Temple and after marriage, due to misunderstanding between them, the son of the petitioner filed HMOP No.70 of 2017 before the Subordinate Judge, Kovilpatti and the respondent/wife filed DVC No.13 of 2017. In the meantime, the petitioner filed a private complaint before the Judicial Magistrate No.II, Virudhunagar, in Cr.M.P.No.9489 of 2018, which was dismissed by the learned Magistrate No.II, Virudhunagar



stating that since two cases are pending with regard to the same issue, this petition is not maintainable. Aggrieved by the order of the trial court, this petitioner is before this court.

3.Heard both sides and perused the materials available on record.

4.The revision petitioner states that the respondent/accused only stated the allegation in the counter filed in HMOP No.70 of 2017 and in DVC No.13 of 2017 on the file of the Judicial Magistrate No.1, Kovilpatti that on 05.03.2017 when the respondent/accused husband was present in his house at Virudhunagar, at that time, the respondent/accused herein went to his house to see her husband and her son and at that time, the petitioner and his wife prevented her to see her husband and her son and also the petitioner threatened her and her son to kill in due course and on 05.03.2017, his son was not in India and due to the allegation against him, he suffered mental agony and hence, the offence under Sections 499 and 500 IPC are made out and prays that the criminal revision has to be allowed.

5.It is admitted on both sides that HMOP No.70 of 2017 and DVC No.13 of 2017 are pending only against the respondent and her husband.

6.The contention of the petitioner is that on 05.03.2017 his son was not in India. To prove it, no document was filed on the side of the petitioner. The allegation stated by the respondent against the petitioner is true or not is to be decided in the above cases by way of examining the witnesses and by producing the documents. Now both the cases viz., HMOP No.70 of 2017 and DVC No.13 of 2017 are pending. Further, in the private complaint, no witness was examined on the side of the petitioner to prove the above allegations. Hence, no *prima facie* case is made out. The reasons stated in the petition are not acceptable. Hence, in the interest of justice, the criminal revision is liable to be dismissed.

7.In the result, this criminal revision is **dismissed**.

Sd/-

Assistant Registrar (CS II)

// True Copy //

Sub Assistant Registrar (CS)

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To,
The Judicial Magistrate No.II,
Virudhu Nagar.

<https://hcservices.ecourts.gov.in/hcservices/>



+1 CC to M/s.K.NEELAMEGAM, Advocate (SR-74000[F] dated 08/07/2019)

+1 CC to M/s.S.RAMASAMY, Advocate (SR-74336[F] dated 09/07/2019)

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KK/SAR/14.10.2019/3P-4C/