



BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

DATED: 28.01.2019

CORAM

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THE HONOURABLE MR.JUSTICE P.VELMURUGAN

Cr1.R.C.[MD]No.395 of 2016

1.Dhanam
2.R.Balamurugan : Petitioners/Accused
Vs.

The State represented by
the Inspector of Police,
South Police Station,
Thanjavur. : Respondent/Complainant

PRAYER: Criminal Revision Case is filed under Section 397 r/w 401 of Criminal Procedure Code, to call for the records and to set aside the order dated 25.04.2016 passed by the learned Sessions Judge, Mahila Court (Fast Track Mahila Court) Thanjavur in Cr.M.P.No.816 of 2016 in Spl.S.C.No.440 of 2015 and discharged the petitioners.

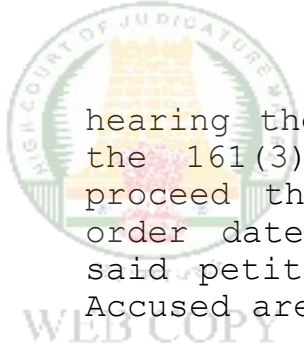
For Petitioners : Mr.P.Sesubalan Raja
For Respondent : Mrs.S.Bharathi,
Government Advocate (Cr1. Side)

O R D E R

This Criminal Revision Case has been filed against the order passed in Cr.M.P.No.816 of 2016 in Spl.S.C.No.440 of 2015 by the learned Sessions Judge, Mahila Court (Fast Track Mahila Court) Thanjavur, dated 25.04.2016

2.Heard the learned Counsel appearing for the petitioners and the learned Government Advocate (Cr1. Side) appearing for the respondent.

3.The respondent police registered a case against the revision petitioners/ Accused in Crime No.82 of 2015 under Section 173 of Cr.P.C. After investigation, the respondent police has filed a charge sheet against the revision petitioners under Section 304(B) (2) IPC read with Section 4(B) (2) of Tamil Nadu Prohibition of Women Harassment Act 1998. The learned Judicial Magistrate took the case on file in PRC.No.64 of 2015 and the same was committed to the Sessions Judge, Mahila Court. On committal, the Mahila Court took the case on file in S.S.C.No.440 of 2015. During the pendency of S.S.C.No.440 of 2015 the revision petitioners/Accused filed a petition under Section 227 Cr.P.C., before the learned Sessions Judge, Mahila Court, Thanjavur, to discharge the revision petitioners / Accused from the charges levelled against them. After



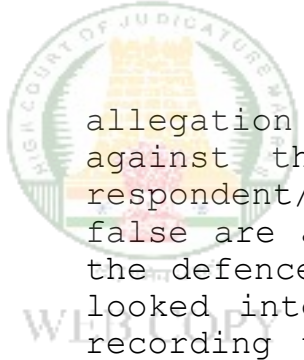
hearing the arguments, the learned Sessions Judge found that from the 161(3) statement, there is a strong material available to proceed the case against the revision petitioners/ Accused. By order dated 25.04.2016, the learned Sessions Judge dismissed the said petition. Challenging the same, the revision petitioners / Accused are before this Court with this revision.

4. Heard both sides and perused the records.

5. The learned Counsel for the petitioners would submit that there is no demand of dowry and there is no prima facie case as against the revision petitioners. He would further submit that the letter produced by the defacto complainant before the police has not been stated during the enquiry made by the District Revenue Officer. Therefore, it creates suspicion and the revision petitioners have not committed any offence as alleged by the prosecution and therefore, the learned Sessions Judge failed to consider the legal position and also factual aspects and dismissed the application, which needs interference of this Court.

6. The learned Government Advocate (Crl. Side) appearing for the respondent would submit that after investigation the respondent Police found that there is a prima facie allegation against them and there is a material to proceed against them and therefore, the respondent police filed charge sheet for the offence under Sections 304(B) (2) IPC r/w. 4(B) (2) of Tamil Nadu Prohibition of Women Harassment Act. The learned Sessions Judge has considered all the points raised by the revision petitioners and found that there is a prima facie case against the accused /revision petitioners and therefore, the learned Sessions Judge rightly considered the case and dismissed the petition and the same does not warrant interference and therefore, there is no merit in this revision.

7. In this case, allegations are levelled against the revision petitioners / Accused for the offence under Sections 304(B) (2) IPC r/w. 4(B) (2) of Tamil Nadu Prohibition of Women Harassment Act. As per FIR a case was registered under Section 174 Cr.P.C. After investigation, the respondent has filed a charge sheet against the revision petitioners under Sections 304(B) (2) read with 4(B) (2) of Tamil Nadu Prohibition of Women Harassment Act. The learned Sessions Judge has taken the case on file in S.S.C.No.440 of 2015. During pendency, the petitioners herein filed a petition under Section 277 Cr.PC before the learned Sessions Judge in Cr.M.P.816 of 2015 to discharge the petitioners from the charges levelled against the revision petitioners. On reading of the entire records filed by the respondent police before the Trial Court under Section 173 Cr.P.C., the records reveals prima facie case against the revision petitioners / Accused. While deciding the petition under Section 227 of Cr.P.C the Court has to see the documents filed by the prosecution under Section 173 of Cr.P.C. as to whether prima facie case made out from the records against the accused. A reading of the entire materials, clearly shows that there is prima facie



allegation and strong material available to proceed the case further against the petitioners/ Accused. The allegations made by the respondent/ complainant against the revision petitioners is true or false are all to be considered only at the time of trial. Further the defence taken by the revision petitioners / Accused need not be looked into at this stage and the same can be decided only after recording the evidence. On a perusal of the records, there is sufficient materials to proceed with the case and this Court does not find any perversity in the order of the learned Sessions Judge. Therefore, this Court does not find any reason to interfere with the order passed by the learned Sessions Judge and there is no merit in this revision.

8. Accordingly, the Criminal Revision Case is dismissed.

Sd/
Assistant Registrar(Crl.Side)

/True copy/

Sub Assistant Registrar(CS)

RM

To

- 1.The Sessions Judge,
Mahila Court (Fast Track Mahila Court)
Thanjavur
- 2.The inspector of Police,
South Police Station,
Thanjavur.
- 3.The Additional Public Prosecutor,
Madurai Bench of Madras High Court,
Madurai.
- 4.The Section Officer,
Criminal Section,
Madurai Bench of Madras High Court,
Madurai.

+1cc to Mr.P.Sesubalan raja, Advocate in SR No.43107

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NM/PS/02.05.2019/3P/6C