



BEFORE THE MADURAI BENCH OF THE MADRAS HIGH COURT

DATE : 24.10.2019

CORAM

THE HONOURABLE MR. JUSTICE V.PARTHIBAN

CRL. R.C. (MD) NO. 796 OF 2019

AND

CRL. M.P. (MD) NO. 9171 OF 2019

Kadappan

.. Petitioner

- Vs -

State, rep. by the
Inspector of Police
All Women Police Station
Thirumayam
Pudukottai District.

.. Respondent

Criminal Revision Case filed u/s 397 r/w 401 of the Code of Criminal Procedure, filed to call for the records pertaining to the order dated 29.8.2019 passed by the Sessions Judge, Mahila Court, Pudukottai, in Crl. M.P. No.431 of 2019 in S.C. No.8 of 2019 and set aside the same.

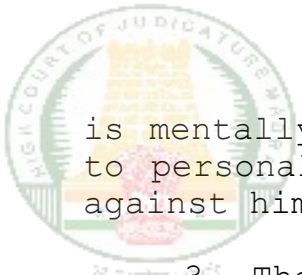
For Petitioner : Mr. C.Mayilvahana Rajendran

For Respondents : Mr. V.Neelakandan, APP

ORDER

The present revision has been filed against the dismissal of the discharge petition by the Sessions Judge, Mahila Court, Pudukottai, vide order dated 29.8.2019 in Crl. M.P. No.431 of 2019 in Spl. S.C. No.8 of 2019.

2. It is the case of the petitioner that based on the complaint preferred by the defacto complainant alleging the misbehaviour of the petitioner with her daughter by sexually assaulting her, a case was registered against the petitioner and final report was filed against the petitioner u/s 5 (k), 5(1) and 6 of the POCSO Act and Section 506 (I) IPC and Section 3 (1) (w) (i) of the SC/ST (PoA) Act. It is the contention of the petitioner before the trial court, which took cognizance of the case, that the statement of the victim cannot be taken as the basis for registering the case, as the victim



is mentally retarded and that the case has been foisted on him due to personal enmity and that no prima facie case has been made out against him and, therefore, prayed for his discharge.

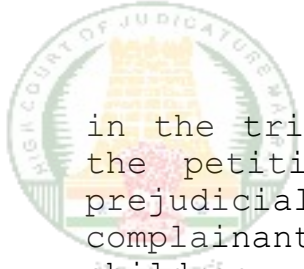
3. The trial court, taking into consideration the submissions advanced on the side of the petitioner/accused for discharge and also considering the materials placed before it, came to a conclusion that the final report filed, prima facie, show the involvement of the accused and, therefore, without a full fledged trial, discharging the accused would be a travesty of justice. Accordingly, the trial court dismissed the petition filed for discharge against which the present revision has been preferred.

4. Learned counsel appearing for the petitioner reiterated the submissions as advanced before the trial court and which has been raised as grounds in the present petition. It is submitted by the learned counsel for the petitioner that the trial court has not considered the materials in proper perspective and, therefore, the order deserves to be set aside.

5. The above contention is countered by the learned Addl. Public Prosecutor by submitting that the materials on record prima facie show the involvement of the petitioner and the trial court, taking into consideration all the materials on record had, by a detailed and well considered order, dismissed the petition for discharge filed by the petitioner herein and, therefore, no interference is warranted.

6. This Court has considered the rival submissions advanced by the learned counsel on either side and perused the materials available on record and also the impugned order passed by the trial court.

7. A careful perusal of the order passed by the trial court reveals that the trial court has taken into consideration the materials placed before it and has also adverted to the contentions advanced on either side and, being satisfied that a prima facie case has been made out to proceed with the trial, has dismissed the petition filed by the petitioner herein for discharge. The order passed by the trial court is not only exhaustive and detail, but it also shows total application of mind by the trial court in coming to the conclusion to dismiss the petition. The order reveals that it is not a cryptic and mechanical order, but an order, which has flown out after due consideration of the facts and circumstances and the materials placed before it. This Court is in complete agreement with the view taken by the trial court and is of the considered opinion that no interference is called for with the well considered order passed by the trial court. Further, it is to be pointed out that no prejudice would be caused to the petitioner if he partakes



in the trial and take it to the logical end. Rather, discharging the petitioner at this point of time would be detrimental and prejudicial to the interest of the prosecution and the defacto complainant, more so when the offence relates sexual assault on children.

8. For the reason aforesaid, this Court is not inclined to interfere with the order passed by the trial court and, accordingly, this revision petition, being devoid of merits, is dismissed. Consequently, connected miscellaneous petition is also dismissed.

Sd/-

Assistant Registrar ()

// True Copy //

Sub Assistant Registrar(CS)

GLN

To

- 1) The Sessions Judge
Mahila Court
Pudukottai.
- 2) The Addl. Public Prosecutor
Madurai Bench of Madras High Court
Madurai.
3. Inspector of Police
All Women Police Station
Thirumayam
Pudukottai District.

+1 CC to Mr.C.MAYIL VAHANA RAJENDRAN, Advocate (SR-94362[F] dated 24/10/2019)

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24.10.2019

VB(07.11.2019) 3P 5C