



BEFORE THE MADURAI BENCH OF THE MADRAS HIGH COURT

DATE : 14.11.2019

CORAM

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THE HONOURABLE MR. JUSTICE V.PARTHIBAN

CRL. R.C. (MD) NO.843 OF 2019

AND

CRL. M.P. (MD) NO. 9902 OF 2019

Vasuki

.. Petitioner

- Vs -

1. Gowtham Srikanthan

2. The Inspector of Police
All Women Police Station
Golden Rock, Tiruchirappalli.

.. Respondents

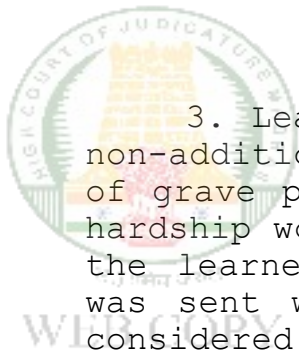
Criminal Revision Case filed u/s 397 r/w 401 of the Code of Criminal Procedure, against the order dated 13.08.2019, passed by the learned Judicial Magistrate, Addl. Mahila Court, Tiruchirappalli, in Crl. M.P. No.10462 of 2019, in C.C.No.838/2019.

For Petitioner : Mr. P.Santhoshkumar
For Respondents : Ms. M.Anantha Devi,
GA (Crl. Side) for R-2

ORDER

The present revision has been filed against the dismissal of the petition filed by the petitioner/defacto complainant u/s 216 Cr.P.C.

2. It is the case of the petitioner that on her complaint, the criminal machinery was set in motion and after investigation, final report was filed against the accused/1st respondent u/s 417 and 506 (i) IPC. Though according to the petitioner, a representation was sent to the higher police officials to add Sections 420 and 376 IPC to the charge, however, the charge sheet has been filed only for the offence u/s 417 and 506 (i) IPC. It is the case of the petitioner that there are sufficient materials, which make out the charges u/s 420 and 376 IPC. Therefore, the petition was filed before the court below to have the charges added u/s 420 and 376 IPC. However, the trial court, without adverting to the materials has dismissed the petition and aggrieved by the said dismissal, the present revision petition has been filed.



3. Learned counsel appearing for the petitioner submitted that non-addition of the charges u/s 420 and 376 IPC would entail cause of grave prejudice to the petitioner and that irreparable loss and hardship would be caused to the petitioner. It is the contention of the learned counsel for the petitioner that though representation was sent way before laying of the charge, the same has not been considered properly and the petition before the court below has failed to yield the proper result and, therefore, prays this Court to interfere with the order passed by the court below.

4. This Court bestowed its best attention to the submission advanced by the learned counsel for the petitioner and also perused the materials available on record as also the impugned order passed by the court below.

5. A perusal of the order passed by the court below reveals that the court below has applied its mind to the materials placed before it and has rendered a finding on the basis of the said materials. The court below has rendered a categorical finding that there are no materials available on record to alter the charge. Further, inclusion of the charge u/s 376 IPC would result in the matter being triable exclusively by the sessions. In such a case, the court below has held that a duty is cast upon the committal court to satisfy itself as to the offence made out before altering the charge. In the case on hand, the court below has held that the materials available on record in no way further the case of the petitioner as to the making out of the charge u/s 420 and 376 IPC. The Court, adverting to various authorities on the alteration of charge, has categorically held that though the power vests with the court to alter the charge, but the same has to be done only on the basis of materials and not to the satisfaction of the parties. In such view of the matter, the court below has dismissed the petition seeking alteration of charge. This Court, on a careful analysis of the order passed by the court below, does not find any infirmity in the said order and the same does not warrant any interference at the hands of this Court.

6. The present revision petition, being devoid of merits, is accordingly dismissed. Consequently, connected miscellaneous petition is also dismissed.

Sd/-

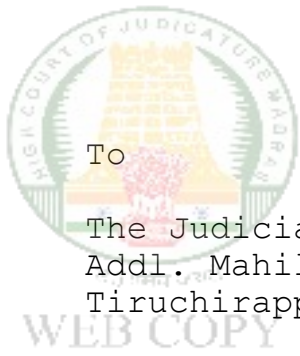
Assistant Registrar (AS)

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



To

The Judicial Magistrate
Addl. Mahila Court
Tiruchirappalli.

**CRL. R.C. (MD) NO. 843 OF 2019
14.11.2019**

MK (09.12.2019) 3P 2C