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IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 09.07.2021

C O R A M

THE HONOURABLE MR.JUSTICE P.VELMURUGAN

Crl.R.C.No.375 of 2021 &
Crl.M.P.Nos.6214 & 6215 of 2021

Vendimirutham @ Vasanthi ... Petitioner /Petitioner/Accused

Vs.

State rep.by the
Inspector of Police,
Ananthapuram Police Station,
Villupuram District. ... Respondent/Respondent/Complainant
(Crime No.260 of 2017)

PRAYER: Criminal Revision Case filed under 397 r/w 404 of Cr.P.C. to set aside the order dated 23.02.2021, passed by the learned Sessions Judge, Fast Track Mahila Court, Villupuram in Crl.M.P.No.1540 of 2017 in S.C.No.309 of 2017, and discharge the revision petitioner from the case.

For Petitioner : Mr.S.L.Sudarsanam

For Respondent : Mr.S.Sugendran
Government Advocate (Crl.Side)

O R D E R

This Criminal Revision Case has been filed to set aside the order passed in Crl.M.P.No.1540 of 2017 in S.C.No.309 of 2017, on the file of the learned Sessions Judge, Fast Track Mahila Court, Villupuram dated 23.02.2021, and discharge the petitioner from the case.

2. The respondent police initially registered the case against the petitioner in Crime No.260 of 2017 for the offence under section 307 of IPC and subsequently, it was altered into Section 302 of IPC. After investigation, the respondent police laid a charge sheet before the Magistrate and after completing the formalities, the learned Magistrate has committed the case to the learned Sessions Judge (Fast Track Mahila Court), Villupuram and she has taken the case on file in S.C.No.309 of 2017.



3. During the pendency, the petitioner has filed the petition in CrI.M.P.No.1540 of 2017 before the learned Sessions Judge, Fast Track Mahila Court, Villupuram under section 227 Cr.P.C to discharge her from the case and the said petition was dismissed by the learned Sessions Judge. Aggrieved by the order passed by the learned Sessions Judge (Fast Track Mahila Court), Villupuram, the petitioner is before this Court.

4. The learned counsel for the petitioner would submit since the names of the deceased and her husband were omitted in a family invitation of the petitioner, who is none other than the aunt of the deceased (deceased's mother's sister), a quarrel arose between the deceased and her mother and due to which, the deceased set herself on fire by pouring kerosene and she was admitted in the Hospital and subsequently succumbed to her burn injuries. It is submitted that husband of the deceased (P.W.1) and the mother of the deceased (P.W.2), themselves have stated that the deceased herself set on fire by pouring kerosene and the same was not considered by the respondent-Police, and even they have not included the same in the charge sheet. Even, the mother of the deceased (P.W.2), who filed the affidavit before the bail Court, stating 'that the deceased is her daughter and the petitioner is her sister and on the occurrence time, the petitioner is not in the occurrence place' and considering on the above fact, bail was granted to the petitioner herein, by the learned Sessions Judge in CrI.M.P.No.6350 of 2017, dated 20.09.2017. Therefore, there is no prima facie case and details to frame charge against the petitioner. However, the learned Sessions Judge failed to consider the legal aspects, as well as factual aspects and dismissed the petition mechanically. Therefore, the learned counsel prays to set aside the order of the learned Sessions Judge.

5. The learned Government Advocate would submit that in this case deceased herself given a statement, while admitting in the hospital, subsequently she died, therefore, it could be treated as dying declaration and further, the deceased herself was the complainant, and therefore, whether dying declaration is admissible in evidence or not and it can be decided only at the time of trial and not at this stage and the learned Sessions Judge, after considering all the aspects, rightly dismissed the petition, which warrants no interference.

6. Heard the learned counsel on either side and perused the materials placed on record.

7. Admittedly, the respondent-Police registered the case against the petitioner in Crime No.260 of 2017 for the offences under section 307 of IPC and subsequently, it was altered into



302 of IPC, based on the complaint given by the deceased. The main allegation is that the petitioner had served marriage invitation to the deceased, and in the invitation, the name of the deceased and her husband were not found and therefore, she questioned the petitioner, and due to which, a quarrel arose between the deceased and she (the petitioner) set fire on the deceased and due to which, the deceased sustained burn and admitted in the hospital and the Hospital Authorities informed to the police and on receipt of information, the Police came to the Hospital and recorded the statement.

8. Though the learned counsel for the petitioner would submit that P.W.1 and P.W.2 themselves stated that they obtained thumb impression from the deceased and they filled their own version, therefore, this is not the version of the deceased. However, it is well settled principles of law at the time of framing charge, the Court cannot conduct roving enquiry on the materials produced by the prosecution. If the trial Court satisfies that there is a ground to frame charge and it can frame charge on the accused from the available materials. On a reading of the entire evidence, it could be seen that the complaint itself was given by the deceased, while admitting in the hospital, a case was registered under Section 307 of IPC, subsequently, after the death of the deceased, it was altered into 302 of IPC. Whether the dying declaration is admissible in evidence or not; valid or not; the deceased was in the fit state of mind or not; and the same can be decided only after the trial and not at this juncture. At the stage of framing of charge, the Court has to consider the material with a view to find out if there is sufficient ground for prosecuting that the accused has committed the offence and not for the purpose of arriving at the conclusion that it is not likely to lead to a conviction.

9. Therefore, this Court does not find any merit in the Revision, and accordingly, the Revision is dismissed, and the order passed by the learned Sessions Judge, Fast Track Mahila Court, Villupuram in CrI.M.P.No.1540 of 2017 in S.C.No.309 of 2017, dated 23.02.2021, is hereby confirmed. Consequently, connected miscellaneous petitions are closed.

Sd/-

Assistant Registrar (CS-VIII)

//True Copy//

Sub Assistant Registrar

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To

1. The Sessions Judge, Fast Track Mahila Court,
Villupuram

2. The Inspector of Police,
Ananthapuram Police Station,
Villupuram District.

3. The Public Prosecutor,
Madras High Court, Chennai.

+1cc to Mr.S.L.Sudarsanan, Advocate, S.R.No. 32293

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GMI (CO)
GN(16/08/2021)