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IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 23.08.2021

Coram:

THE HONOURABLE MR. JUSTICE P.VELMURUGAN

Criminal Revision Case No.497 of 2021
and
Crl.M.P.No.8072 of 2021

S.Govind

.. Petitioner/Petitioner/Accused

Vs.

The State by
Inspector of Police
All Women Police Station
Ambattur.

..Respondent/Respondent/Complainant

Prayer : Criminal Revision filed under Section 397 and 401 of Criminal Procedure Code, praying to set aside the order dated 27.02.2020 passed in C.M.P.No.5418 of 2018 in C.C.No.115 of 2018 on the file of the Judicial Magistrate at Ambattur by allowing this Criminal Revision Petition.

For Petitioner :Mr.P.Raja

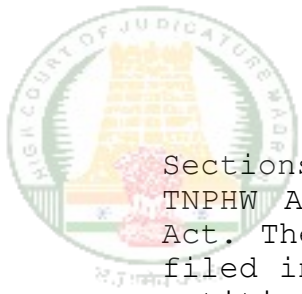
For Respondent : Mr.S.Sugendran
Government Advocate (Crl.Side)

ORDER

(The case has been heard through video conference)

This Criminal Revision has been filed against the order dated 27.02.2020 passed in C.M.P.No.5418 of 2018 in C.C.No.115 of 2018 on the file of the Judicial Magistrate, Ambattur.

2. The respondent police registered a case against the petitioner in Crime No.7 of 2017 for the offences punishable under Sections 420, 354 D, 506(i) IPC and under Section 66 C and 66 D of Information Technology Act 2000. After completing the investigation, they laid charge sheet before the learned Judicial Magistrate, Ambattur for the offences punishable under



Sections 420, 354 D, 406, 493, 506(2) IPC read with Section 4 of TNPHW Act and Section 66 C and 66 D of Information Technology Act. The learned Magistrate taken cognizance of the charge sheet filed in C.C.No.115 of 2018 and during pendency of the same, the petitioner filed a petition in C.M.P.No.5418 of 2018 under Section 239 Cr.P.C. seeking to discharge him from the said charges. The learned Magistrate, after enquiry dismissed the same. Challenging the same, the present revision has been filed before this Court.

3. The learned Counsel for the petitioner would submit that there is no sufficient documentary or oral evidence to implicate the petitioner in the charges under the said provisions produced by the prosecution and the learned Magistrate failed to look in to the same. Further, the petitioner had only used his own social media accounts and passwords and that he had not used or hacked the defacto complainant's G-mail or Face Book accounts and the respondent police have not filed any documentary proof in respect of the above allegation. Further, there is no evidence to prove the alleged first marriage between the petitioner and one Samatha. However, without any proof of marriage, the petitioner has been charged for offence under Section 493 IPC. The learned Magistrate failed to consider the averments made in the petition and simply dismissed the same which warrants interference. Further, the learned Magistrate having formed an opinion that there was a valid defence on the part of the petitioner for the charges under Section 406 and 420 IPC, ought to have discharged the petitioner from the above charges. With respect to the charge of criminal intimidation under Section 506(2) IPC is concerned, the same is merely on the basis of the statement made under Section 161 Cr.P.C. which is also incorrect and there is no material available. Further, there is no documentary evidence to prove the charge under Section 4 of TNHW Act against the petitioner. Hence, he prays allowing the revision.

4. The learned Government (Crl. Side) would submit that there are materials to show the prima facie allegation leveled against the petitioner and the investigation agency has collected documentary evidence. However, that can be decided only by the trial Court subject to admissibility and validity of the same and not at the time of framing charges. Therefore, there is no merit in the revision petition and the revision is liable to be dismissed.

5. Heard the learned Counsel for the petitioner and the learned Government Advocate (Crl. Side) appearing for the respondent and perused the materials on record.

6. Admittedly, the case respondent police registered a case



against the petitioner in Crime No.7 of 2017 for the offences punishable under Sections 420, 354 D, 506(i) IPC and under Section 66 C and 66 D of Information Technology Act 2000. After completing the investigation, they laid charge sheet before the learned Judicial Magistrate, Ambattur for the offences punishable under Sections 420, 354 D, 406, 493, 506(2) IPC read with Section 4 of TNPHW Act and Section 66 C and 66 D of Information Technology Act. Subsequently, the learned Magistrate taken cognizance of the charge sheet filed in C.C.No.115 of 2018. When the matter was posted for further proceedings, the petitioner filed a petition in C.M.P.No.5418 of 2018 under Section 239 Cr.P.C. seeking to discharge him from the allegations. Whereas, there are incriminating materials to show the prima facie case against the petitioner and the documentary evidence collected by the prosecution can be decided only at the stage of trial subject to admissibility and validity of the same and not at the time of framing charges. It is settled proposition of law that while deciding the petition under Section 239 of Cr.P.C. seeking discharge, the Court has to see whether there exists any prima facie material to proceed the case and the defence taken by the accused need not be looked into at the time of framing of charges.

7. Considering the facts and circumstances of the case this Court does not find any perversity in the order passed by the learned Magistrate. Therefore, the revision is liable to be dismissed and there is no arguable ground to admit the revision.

8. Accordingly, this Criminal Revision case is dismissed at the admission stage. Consequently, connected Miscellaneous Petition is closed.

Sd/-
Assistant Registrar (CS-VII)

//True Copy//

Sub Assistant Registrar

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To:

1. The Judicial Magistrate,
Ambattur
2. The Inspector of Police,
All Women Police Station, Ambattur.



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

4. The Section Officer,
Criminal Section,
High Court, Madras.

Criminal Revision Case No.497 of 2021

RP (CO)
SU (20/09/2021)