

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 26.02.2021

CORAM:

THE HON'BLE MR.JUSTICE A.D.JAGADISH CHANDIRA

Crl.R.C.No.317 of 2014
and
M.P.No.1 of 2014

Dharmaraj
S/o.Thangavel

....Petitioner/Defacto complainant

Vs.

1.The State
Rep. by the Inspector of Police
Mahalingapuram Police Station
Pollachi
(Crime NO.146 / 2012)

2. Nalini
W/o.Sethuramalingam

3. Sethuramalingam
S/o.Palanisamy Gounder

...Respondents 2 & 3 /Accused 2& 3

Prayer :- Criminal Revision Petition filed under Section 397 & 401 Cr.P.C., to set aside the order in C.M.P.No.117/2013 in S.C.No.39/2013 dated 16.12.2013 by the learned Sessions Judge, Magalir Needhimandram, Coimbatore.

For Petitioner : Mr.R.Sudhakar for Mr.S.Shankar
For Respondent-1 : Mr.T.Shunmuga Rajeshwaran
Government Advocate (Crl. Side)
For Respondents 2 & 3 : Mr.R.Thangavel

ORDER

The Revision has been filed by the petitioner / defacto complainant to set aside the order in C.M.P.No.117 of 2013 in S.C.No.39 of 2013 dated 16.12.2013 discharging the respondents 2 and 3.

2. The brief facts of the case as per the complaint given by the petitioner/defacto complainant is that he is the resident of Pollachi CTC Thottam and he was engaged in the business of Coconut and that his younger sister Kalaiselvi had been given in marriage to one Arul Siva Sentil, S/o.Late Venkatesan on 01.09.2001 and at the time of marriage 25 Sovereigns of gold jewels and other Seervarisai articles were given. Thereafter, his sister was living with her husband and in-laws as a joint family and that they have got one son aged 7 years. Right from the date of marriage, his brother-in-law was having drinking habits and that he was spending all the money for his drinking habits and when ever he did not have money, he used to fight with his sister and take money from her. Taking into consideration the character of his brother-in-law, his sister's father-in-law had executed a will. Out of 10 acres, 3 acres was settled in favour of Nalini/Sister of A1 (the second respondent herein) and 7 acres was settled infavour of his sister and brother-in-law and he died after some time. Since, his brother-in-law has started drinking more and harassing, his sister used to contact the defacto complainant and his father and complained. After sometime his sister's mother-in-law due to dispute in the property had quarreled with his siter and went to live with her daughter and after the mother-in- law left, his brother-in-law used to beat his sister and harassed her due to which, on 24.08.2012 at 4.30 p.m. the defacto complainant's sister attempted to commit suicide by self immolation and the defacto complainant had admitted her in the hospital and she died on 29.08.2012 at night hours. Based on the complaint given by the defacto complainant, the case was registered by the respondent for offence under Section 306 IPC and after completion of investigation, the first respondent have filed the final report against the first accused Arul Siva Sentil, his mother Gnanam and against the respondents 2 and 3 and for offence under Section 306 IPC and Section 4 of Prohibition of Women Harassment Act. Thereafter, the respondents 2 and 3 had filed C.M.P. No.117 of 2013 under Section 227 Cr.P.C. to discharge them from the case stating that during the occurrence, the respondents 2 and 3 were living elsewhere and there is no material against them to frame charges against them for offence under Secion 306 IPC since, none of the witnesses had spoken about the involvement of the respondents 2 and 3 in the offence and that there is also delay in registration of the complaint. The trial Court taking into consideration that the will was not acted upon and finding that there is no material against respondents 2 and 3, had discharged them from this case. Against the discharge of the respondents 2 and 3, the present revision has been filed by the petitioner /defacto complainant.

3. The learned Counsel for the petitioner would submit that the trial Court failed to take into consideration that there

were materials available to frame charges against respondents 2 and 3. The respondents had joined with the other accused and harassed the victim (the sister of the petitioner) since the father-in-law had executed the will infavour of her and her son. The trial Court without properly considering the available materials on record has erred in discharging the respondents 2 and 3.

4. The learned Government Advocate (Crl. Side) would submit that the respondents 2 and 3 are respectively the sister and brother-in-law of the first accused. The defacto complainant had stated that the respondents 2 and 3 have insisted his sister to transfer the property in favour of them and they have mentally harassed her due to which, she committed suicide by self immolation.

5. At this juncutre, the learned Counsel for the respondent 2 and 3 would submit that the father-in-law of the deceased had executed a will in favour of the deceased and her son and her husband who is the first accused in this case. However, the will was not acted upon and thereby, the property itself was not transferred in the name of the deceased. When such being so, the trial court has rightly found that there is no requirement for compelling the deceased to transfer the property and the trial Court also found that there were no material to frame charges against the respondents 2 and 3 and further finding there is no materials to suggest that the respondents 2 and 3 have abetted the victim to commit sucide, had rightly discharged respondents 2 and 3 who are respectively the sister and brother-in-law of A1. They were living elsewhere and they were unnecessarily implicated in this case. He would further submit that after the discharge of the respondents 2 and 3, trial was conducted in respect of the first accused who is the husband of the deceased and the fourth accused who is the mother-in-law of the deceased and the trial Court after fulfledged trial finding that there is no material against the accused, had acquitted them by order dated 24.11.2016 in S.C.No.39 of 2013 and till date no appeal has been filed either by the State or by the defacto complainant challenging the order of acquittal. He would further reiterate that the trial Court had rightly discharged the respondents 2 and 3.

6. Heard the learned Counsels and perused the materials on record.

7. This Court having perused the materials on record is of the opinion that the trial Court rightly finding there is no material to frame charges against the respondents 2 and 3 and discharged them. There is no infirmity in the order. Subsequently, trial has been conducted inrespect of the other

accused namely the A1/husband of the victim and A4/mother of the victim and on finding that there is no material against them, the trial Court has acquitted them.

8. This Court finds no infirmity or perversity in the order passed by the learned Sessions Judge, Magalir Needhimandram, Coimbatore in C.M.P.No.117/2013 in S.C.No.39/2013 dated 16.12.2013.

9. Accorindgly, this Criminal Rivision case stands dismissed. Consequently, connected Miscellaneous Petition is closed.

Sd/-

Assistant Registrar(CS V)

//True Copy//

Sub Assistant Registrar

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To

1. The Sessions Judge, Magalir Needhimandram, Coimbatore.
2. The Inspector of Police
Mahalingapuram Police Station
Pollachi
3. The Public Prosecutor
High Court of Madras.

+1cc to M/s.M.R.Thangavel, Advocate, S.R.No.12132

सत्यमेव जयते

Cr1.R.C.No.317 of 2014
and
M.P.No.1 of 2014

AAB (CO)
KKV/18/03/2021
KKV/24/03/2021

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