



WEB COPY

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 02.11.2021

Coram:

THE HONOURABLE MR. JUSTICE P.VELMURUGAN

Crl Rc.No.680 of 2021 and
Crl.M.P.No.11102 of 2021

S.Latha

...Petitioner /Accused

Vs.

The State represented by
The Sub- Inspector of Police,
Ambur Taluk Police Station,
Ambure, Vellore,
Crime No: 179 of 2013

... Respondent / Complainant

Prayer : Criminal Revision is filed under Section 397 read with 401 of Criminal Procedure Code, praying to set aside the order in C.M.P. 1741 of 2020 dated 12.02.2021 in C.C.No. 40 of 2019 on the file of the Additional District Munsif cum Judicial Magistrate, Ambur, as illegal, incompetent, irregular and totally without jurisdiction

For Petitioner : M/s.V.Raghavachari

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

J U D G M E N T

(The case has been heard through video conference)

This Criminal Revision has been filed against the Order dated in C.M.P.1741 of 2020 dated 12.02.2021 in C.C.No. 40 of 2019 by the Learned Additional District Munsif cum Judicial Magistrate, Ambur and to set aside the same.



2. The petitioner is one of the accused arrayed as A9 and the defacto complainant filed a complaint against the petitioner/A9 and others for the offence under Section 498-A, 506 (i) IPC and S.4 of Women Harrasment Act and after registering the case and in Crime No.179 of 2013, the respondent police filed the charge sheet before the Additional District Munsif Cum Judicial Magistrate, Ambur, and the same was taken on file in C.C.No.40 of 2019. After completing the formalities, the learned Magistrate taken the cognizance and during pendency of the case, the petitioner/A9 filed a petition under Section 239 Cr.P.C. to discharge her from the alleged offences under Section 498-A, 506(i) IPC and Section 4 of Women Harassment Act in C.M.P.No.1741 of 2020. After hearing the arguments, the learned Magistrate dismissed the petition filed by the petitioner/A9 and challenging the said Judgment of dismissal, now the petitioner/A9 has filed the present revision before this Court.

3. The learned counsel for the petitioner would submit that there is no allegation against the petitioner/A9 and none of the witnesses have spoken about the involvement of the petitioner. Though she is one of the family member, she already got married and living separately with her husband and she has nothing to do with the family affairs. Further, in the FIR, there is no allegation against the petitioner/A9. Even in the subsequent statement, none of the witnesses have spoken against the petitioner with regard to harassment or cruelty or threatening whereas, the learned Magistrate failed to appreciate the same and dismissed the petition. He would reiterate that the petitioner is a married women and living separately at her matrimonial home and that there is no allegation against the petitioner/A9. Hence, the order passed by the learned Magistrate is liable to be set aside.

4. The learned Government Advocate (Criminal side) would submit that there is prima facie allegation against the petitioner and the defacto-complainant has clearly stated during the statement recorded under Section 161 Cr.P.C., that all the family members including the petitioner/A9 had joined together and prepared the partition deed without her knowledge and without even allowing her to read the partition deed, threatened and forced her to put signature and when she refused to do so, they threatened her with consequences. Even the other accused have spoken about the involvement of this petitioner and therefore, the trial Court found prima facie allegation against the petitioner. Therefore, 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 police and perused the materials on record.

6. The defacto-complainant had filed a complaint against the petitioner/A9 and others before the respondent police and respondent police registered the case in Crime No.179 of 2013 and laid the charge sheet before learned Additional District Munsif Cum Judicial Magistrate, Ambur and the learned Magistrate taken cognizance of the charge sheet in C.C.No.40 of 2019 in which, the petitioner has been arrayed as A9. Subsequently, the petitioner filed a petition in Crl.M.P.No.1741 of 2020 invoking Section 239 Cr.P.C. and the learned Magistrate, after considering the materials, dismissed the petition. Therefore, the petitioner is now before this Court.

7. A reading of the entire materials from the charge sheet filed by the respondent police and the annexure reveals that there is prima facie case made out against the petitioner/A9. It is settled proposition of law that at the time of deciding the petition under Section 239 Cr.P.C. the Court has to see only the charge sheet filed by the investigating agency under Section 173(ii) Cr.P.C. and the annexure and that the defence taken by the accused can only be considered during trial and not at this stage. Therefore, under these circumstances, this Court does not find any perversity in the order passed by the learned Magistrate and the revision is liable to be dismissed.

8. Accordingly, the Criminal Revision case is dismissed. Consequently, connected Miscellaneous Petition is closed. The petitioner is at liberty to raise all her defence, at the time of trial.

Sd/-

Assistant Registrar(CS-V)

// True Copy //

Sub Assistant Registrar

ksa-2/dsn

To

1.The Additional District Munsif
Cum Judicial Magistrate,
Ambur,



2.The Sub- Inspector of Police,
Ambur Taluk Police Station,
Ambure, Vellore,

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

+1cc to Mr.V.Raghavachari, Advocate SR.No.57125

Crl Rc.No.680 of 2021
and
Crl.M.P.No.11102 of 2021

KSM(CO)
CB(11/01/2022)