

IN THE HIGH COURT OF JUDICATURE AT MADRAS
DATED : 29.04.2021

CORAM:

THE HON'BLE Mr. JUSTICE P.VELMURUGAN
Criminal Revision Case No.770 of 2019
and
Crl.M.P.Nos.10967 of 2019 & 5284 of 2021

1.G.Poongani
2.P.Gurupandian
3.G.Thamarai Selvi

... Petitioners/ Respondent 3 to 5
...vs...

1.State Rep.by
Inspector of Police,
H-3, Tondiarpet Police Station,
Tondiarpet, Chennai - 600 081.

2.Thangeswari
3.Gopalakrishnan

... Respondents/1st Respondent Petitioner & 2nd Respondent

Criminal Revision Case filed under Section 397 read with
401 Cr.P.C, to call for the records in Crl.M.P.No.18476 of
2018 in S.C.No.143 of 2016 on the file of the learned Sessions
Judge, Mahila Court, Chennai and set aside the order dated
06.06.2019.

For Petitioners : Mr.Pradeep Jayaraman
For Respondents : Mr.K.Mathan
Government Advocate (Crl.Side) for R1
Mr.S.K.Krishnamurthy for R2

O R D E R

This Criminal Revision Case has been filed against the
order dated 06.06.2019 made in Crl.M.P.No.18476 of 2018 in
S.C.No.143 of 2016 on the file of the learned Sessions Judge,
Mahila Court, Chennai.

2.The case of the petitioners is that the second
respondent is the de facto complainant and mother of the
deceased; the third respondent herein is the husband; and the
petitioners herein are in-laws of the deceased. Based on the
complaint given by the second respondent/ de
facto complainant, the first respondent police registered a
case against the petitioners and the third respondent for an
offence under Section 174 Cr.P.C., later on, altered into
Sections 498(A), 304(B) and 306 IPC. After investigation, the
first respondent police filed a charge sheet against the third
respondent/accused and the same was taken on file in
S.C.No.143 of 2016. During the trial, after examination of the

prosecution witnesses P.W.1 to P.W.3, the 2nd respondent herein filed a petition in CrI.M.P.No.18476 of 2018 under Section 319 Cr.P.C. praying to implead the petitioners 1 to 3 herein as proposed accused in S.C.No.143 of 2016. After hearing the arguments and based on the materials the learned Sessions Judge, Mahila Court, Chennai allowed the petition and impleaded the petitioners herein as accused. Challenging the same, the proposed accused have come forward with the present revision case.

3. On 13.08.2019, this Court, while admitting this revision case, has granted an order of interim stay thereby, staying further proceedings of the order dated 06.06.2019 in CrI.M.P.No.18476 of 2018 in S.C.No.143 of 2016 until the completion of the present revision case. Now, the second respondent/de facto complainant filed a vacate stay petition in CrI.M.P.No.5284 of 2021. However, this Criminal Revision Case itself is taken up for final disposal on merits.

4.It is seen from the records that after the evidence on the side of the prosecution side was over, the trial Court impleaded the petitioners 1 to 3 herein as proposed accused 3 to 5 while allowing the petition filed by the 2nd respondent/de facto complaint under Section 319 of Cr.P.C. in CrI.M.P.No.18476 of 2018 in S.C.No.143 of 2016. A perusal of Section 319 Cr.P.C. reveals that the Court can implead any person as accused in any case at any stage, other than the present accused, if there are materials showing their involvement in the commission of the offence and such persons could be tried together with the present accused. Therefore, based on the evidence of the prosecution witnesses P.W.1 to P.W.3, when the de facto complainant filed a petition under Section 319 Cr.P.C, the trial Court after going through the evidence of P.W.1 to P.W.3, impleaded the petitioners 1 to 3 herein as proposed accused.

5.This Court deems it appropriate to extract Section 319 Cr.P.C, which reads as follows :

"319. Power to proceed against other persons appearing to be guilty of offence.

(1) Where, in the course of any inquiry into, or trial of, an offence, it appears from the evidence that any person not being the accused has committed any offence for which such person could be tried together with the accused, the Court may proceed against such person for the offence which he appears to have committed.

(2) Where such person is not attending the Court he may be arrested or summoned, as the circumstances of the case may require, for the purpose aforesaid.

(3) Any person attending the Court although

not under arrest or upon a summons, may be detained by such Court for the purpose of the inquiry into, or trial of, the offence which he appears to have committed.

(4) Where the Court proceeds against any person under sub-section (1) then—

(a) the proceedings in respect of such person shall be commenced afresh, and witnesses re-heard;

(b) subject to the provisions of clause (a), the case may proceed as if such person had been an accused person when the Court took cognizance of the offence upon which the inquiry or trial was commenced. ''

6. Under these circumstances, the trial Court has very power to implead any of the accused at any stage, if sufficient materials are available to connect them to the offence. Therefore, this Court has come to the conclusion that there are materials available to show the involvement of the petitioners in the commission of the offence alleged in this case. Therefore, this Court does not find any merit in the Criminal Revision Case, therefore, the same is liable to be dismissed.

7. In the result, the Criminal Revision Case is accordingly dismissed, thereby confirming the order passed in CrI.M.P.No.18476 of 2018 in S.C.No.143 of 2016 by the learned Sessions Judge with a direction to proceed with the case in accordance with law, after serving summons on the proposed accused/ petitioners 1 to 3 herein. Consequently, connected miscellaneous petitions are also dismissed.

Sd/-

Assistant Registrar(co)

//True Copy//

Sub Assistant Registrar

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To

1. The Sessions Judge,
Mahila Court, Chennai.

2. The Inspector of Police,
H-3, Tondiarpet Police Station,
Tondiarpet, Chennai - 600 081.

3. The Public Prosecutor, High Court, Madras.

+1cc to Mr.K.Thenrajan , Advocate SR.No. 26417

CrI.R.C.No.770 of 2019 and
CrI.M.P.Nos.10967 of 2019 & 5284 of 2021

A.SK(09.06.2021)

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