



WEB COPY

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 02.12.2021

CORAM:

THE HON'BLE Ms.JUSTICE R.N.MANJULA

Crl.R.C.No.1544 of 2017

and

Crl.MP.No.15501 of 2017

Settu

S/o.Marimuthu

... Petitioner/Accused

Vs.

The State of Tamilnadu,
Represented by the Inspector of Police,
Edappadi,
Edappadi Town,
Salem District.

... Respondent/Complainant

Criminal Revision filed under Sections 397 and 401 Cr.P.C praying to set aside the Order dated 27.10.2017 in Criminal M.P.No.1185 of 2017 in S.C.No.237 of 2017 pending on the file of the Sessions Judge, Mahila Court, Salem.

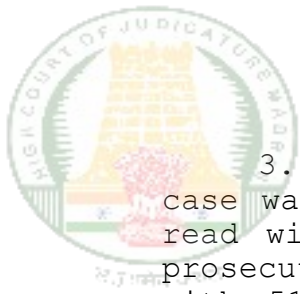
For Petitioner : Mr.S.Dakshinamurthy

For Respondent : Mr.A.Gopinath
Government Advocate (Crl.Side)

O R D E R

This Criminal Revision Case has been preferred challenging the order of the learned Sessions Judge, Mahila Court, Salem dated 27.10.2017 made in Crl.M.P.No.1185 of 2017 in S.C.No.237 of 2017.

2. The petitioner is the sole accused in the above Sessions case. The case of the prosecution is that on the date of occurrence, the accused went to the house of the de facto complainant in order to get back the money lent by him to the husband of the de facto complainant. At that time, the accused abused the de facto complainant in filthy language and scolded that she should die if she was not able to give back the amount borrowed by her. Having felt humiliated, the de facto complainant had attempted to commit suicide by self immolation. She affected with 40% burn injuries, but survived.



3. On the complaint given by the de facto complainant, a case was registered in Crime No.932 of 2013 under Section 306 read with 511 IPC. After completing the investigation, the prosecution has filed the charge sheet under Section 306 read with 511 IPC. The petitioner/accused has filed a petition under Section 227 Cr.P.C to discharge him from the charges and stating that there is no prima facie materials available on record to charge him for the offence under Sections 306 read with 511 IPC.

4. The learned Sessions Judge, Mahila Court dismissed the petition by observing that there are prima facie materials available on record to frame charges against the accused under Sections 309 read with 107 IPC. Aggrieved over that, the petitioner/accused has preferred the present Revision case.

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

6. Point for Consideration:-

Whether the order of the learned Mahila Judge, dismissing the discharge petition filed under Section 227 Cr.P.C is fair and proper?

7. The learned counsel for the revision petitioner submitted that the complaint itself has been given after a considerable delay and delay in filing FIR ought to have been taken seriously by the learned Sessions Judge for discharging the accused. Since the de facto complainant is alive, no case is made out against the accused. But the said fact has not been properly appreciated by the learned Sessions Judge.

8. The learned Government Advocate (Crl. Side) appearing for the State submitted that though the materials available on record may not attract the charge under Section 306 read with 511 IPC, due to the survival of the de facto complainant, the materials on record would make out a case under Section 4 of Tamil Nadu Prohibition of Harassment of Women Act.

9. Admittedly, the victim had survived and hence, the accused cannot be charged for the offence under Section 306 IPC. It is observed by the learned Sessions Judge that the accused ought to have been charged for the offence under Section 309 read with 107 IPC. Section 309 IPC is a penal provision to punish a person, who attempts to commit suicide. However, section 115 of the Mental Healthcare Act does not consider the act of attempt to commit suicide as an offence.

10. The allegation of the complainant is that the accused had abused her in filthy language in public view and that caused shame and fear in her mind. With this statement on the records, it can be reliably stated that there is a prima facie case made out against the accused under Section 4 of the Tamil



Nadu Prohibition of Harassment of Women Act. Despite the materials are not supportive to charge the accused under Section 306 read with 511 IPC, the materials on record are sufficient to attract other lesser offences as stated already. At this stage, the submissions of the learned counsel for the petitioner is that the merits and demerits of the case and the case of the defence cannot be looked into. It is open to the petitioner/accused to raise all such defence at the time of the trial.

11. With the above observations, this Criminal Revision Case is dismissed. When the case is taken up for appreciation of the basic materials to frame charges by the learned Sessions Judge and if it is found that no offence triable before the Sessions Court is made out, the case records can be transmitted to the concerned jurisdictional Judicial Magistrate through proper channel.

Sd/-
Assistant Registrar (CS-II)

//True copy//

Sub Assistant Registrar

kmi

To

- 1.The Sessions Judge,
Mahila Court,
Salem.
- 2.The Inspector of Police,
Edappadi,
Edappadi Town,
Salem District.
- 3.The Public Prosecutor,
High Court of Madras,
Chennai-600 104.

Copy To

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

+3ccs to Mr.S.Dakshinamurthy, Advocate SR.No.63940

Cr1.R.C.No.1544 of 2017
and Cr1.MP.No.15501 of 2017

CA (CO)
GMY (04/01/2022)