

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 08.02.2021

CORAM:

THE HONOURABLE MR. JUSTICE P.VELMURUGAN

Crl.R.C.No.1018 of 2019
and Crl.M.P.No.14156 of 2019

1.Muthusamy
2.Dharuman
3.Suguna

...Petitioners/Accused 1 to 3

Vs.

State Rep. by
The Inspector of Police
Kallavi Police Station
Krishnagiri District
(Crime No.150 of 2014)

... Respondent/Complainant

PRAYER : Criminal Revision filed u/s.397 r/w.401 Cr.P.C., to set aside the order dated 19.07.2019 made in C.M.P.No.114 of 2019 in S.C.No.10 of 2019 passed by the Sessions Judge, Fast Track Mahila Court, Krishnagiri.

For Petitioners : Mr.Durai Gunasekaran

For Respondent : Mr.K. Madhan

Govt.Advocate (Criminal Side)

O R D E R

The respondent police registered a case against the petitioners in Crime No.150 of 2014 for the offence punishable under Sections 498A, 302, 304(B) read with 201 IPC. After the investigation, the Police laid the charge sheet for the offence punishable under sections 120(B), 302 and 201 IPC before the Judicial Magistrate, Uthangarai, Krishnagiri District. The learned Judicial Magistrate, after completing the formalities taken the charge sheet on file and committed the case to the Sessions Judge. The learned Sessions Judge, taken the case on file in S.C.No.10 of 2019 and made over to the Sessions Judge, Fast Track Mahila Court, Krishnagiri. During the pendency of the case in S.C.No.10 of 2019 on the file of the Special Court, the petitioners have file petition u/s.227 Cr.P.C., to discharge them from the charges involved against them. The said petition was taken on file in Crl.Misc.Petition No.114 of 2019 in S.C.No.10 of 2019. The learned Special Judge, after enquiry, dismissed the petition. Challenging the said order, now the accused have filed the present Criminal Revision before this court.

2. The case of the prosecution is that based on the complaint given by the father of the deceased before the respondent police on 08.06.2014 against the petitioners, that his daughter's death is suspicious. The marriage of the deceased and the 1st petitioner/A1 was solemnised without knowledge and consent of the defacto complainant. After marriage, they lived in the native place of the 1st petitioner.

3. After the marriage between the 1st petitioner and the deceased, matrimonial discord arose due to which frequently quarrels arose between the petitioners and the deceased on account of demand of dowry. The deceased left the matrimonial home and lived with her aunt house and thereafter, Panchayat was held between both their families. Thereafter, the deceased came to the residence of the 1st petitioner and thereafter the deceased lived in the matrimonial home but thereafter, stayed away at Veeranakupam and she was working at private garment company at Tirupur. After some time, the deceased came to the native village in the month of January 2014. Subsequently, there was no communication between from the deceased. Hence, the defacto complainant contacted the 2nd petitioner over the phone about his daughter. Since there was no proper response, the father of the deceased gave a complaint to the respondent police and case was registered in Crime No.150 of 2014. The Police after investigation, laid the charge sheet.

4. The learned counsel for the petitioners would submit that there is no sufficient ground for proceeding trial against the petitioners/accused. As per the FIR and final report, the deceased died prior to six months of the complaint dated 08.06.2014 given by the father of the deceased. The father of the deceased had stated that he seen the deceased in the month of January, 2014. But in the complaint, he has stated that his daughter died prior to January 2014. Therefore, no sufficient grounds to continue the proceedings against the petitioners.

5. The respondent police initially registered case against the petitioners for the offences punishable u/s.498A, 302, 304(B) read with 201 IPC. In the FIR, after investigation, the Police filed the charge sheet against the petitioners for the offence punishable under Section 120(B), 302 and 201 IPC which reveals that there was no cruelty and dowry demand made by the petitioners. If the deceased died due to cruelty and dowry demand made by the petitioners, the respondents would have definitely referred the matter in the investigation to RDO, but the case has not been referred for RDO enquiry against the death of the deceased within one year she died. L.W.24 doctor examined the skeleton remains and in the report dated 01.09.2014, the opinion of the doctor is that bones were belonged to human female aged more than 21 years and that cannot be one of the deceased since the age of the deceased is only about 19 years at the time of occurrence.

Therefore, the skeleton recovered by the prosecution is not that of wife of the 1st petitioner. The Post Mortem report reveals that in the cause of the death of the deceased, no poisoning detected. Therefore, the death of the deceased was under suspicious circumstances and the petitioners are falsely implicated in the said case. The report of the Forensic Department given by L.W.23 dated 29.12.2014 reveals that opinion cannot be given on personal identity. There is no prima facie materials existed to proceed the case against the petitioners and there is no involvement of the accused in the said crime. The learned Special Judge failed to consider all the materials and simply dismissed the petition filed by the petitioners which warrants interference of this court.

6. The learned Government Advocate (Criminal Side) would submit that the father of the deceased gave a complaint before the respondent police and the respondent police registered the case against the petitioners and conducted the investigation and laid the charge sheet. The final report filed by the respondent police reveals that prima facie materials available to proceed further. The defence taken by the petitioners/accused need not gone into at this stage and the court also need not conduct roving enquiry upon the materials produced by the prosecution. Therefore, there is sufficient grounds to proceed the case further. Therefore, the learned Sessions Judge dismissed the petition. There is no interference required.

7. Heard and perused the records.

8. Admittedly, the 1st petitioner is the husband of the deceased and 2nd petitioner is the husband of the 3rd petitioner. The 3rd petitioner is the sister of the 1st petitioner. Based on the complaint given by the father of the deceased, respondent police registered the case in Crime No.150/2014 for the alleged offence punishable u/s.498A, 302, 304(B), read with 201 IPC. After the investigation, it was found that there was no demand of dowry and there was no women harassment and cruelty by demand of dowry. However, it is found that the deceased was suspected to be killed by the petitioners and therefore, the respondent police filed charge sheet for the offences punishable under Section 120(B), 302 and 201 IPC.

9. The main contention of the petitioners is that there was no dowry demand and there is no cruelty and therefore, there is no need to kill the deceased. The skeleton recovered by the respondent police is not that of the victim. After investigation, final report filed by the respondent police. The marriage between the deceased and the 1st petitioner was against the will of the parents. Even though there is some quarrel after Panchayat, they live together. Subsequently, she had contacted with her parents in the month of January 2014. The father of the deceased i.e, the complainant stated that there is no information or contact from her. Therefore, he

asked the 2nd petitioner over phone. But there was no response. The deceased was not staying with the family of the petitioners. Therefore, on suspicion, he filed the complaint. Investigation revealed that she was murdered and also recovered skeleton and conducted post mortem and subsequently laid the charge sheet. However, the prosecution witnesses revealed that prima facie materials are available and there are grounds to proceed the case further.

10. It is settled proposition of law that to decide the petition u/s.227 Cr.P.C., if the trial court finds that there are sufficient grounds to proceed further and that on the charges framed, it can proceed further. If there is no ground, they can give reason and discharge the accused. Whereas, in this case, even though there was no eye witness, in the circumstantial evidence, there are sufficient grounds to proceed further. Therefore, under these circumstances, there is no merit in the Revision. The Revision is liable to be dismissed. At the stage of deciding the petition u/s.227 Cr.P.C., in sessions cases which is akin to Section 239 Cr.P.C pertaining to warrant cases, the court need not conduct roving enquiry on the records produced by the prosecution. Finding out whether prima facie case against the accused has been made out; where the material placed before the court discloses grave suspicion against the accused which has not been properly explained, the court will be fully justified in framing the charge. The court need not conduct roving enquiry into the records produced by the prosecution. The defence taken by the accused need not be taken into consideration and the documents produced on the side of the defence need not be taken into consideration. The court has to decide the case whether there is any grounds to proceed further. In this case, there are sufficient grounds to proceed. There are materials to frame charge. In the present case, from the final report filed by the respondent police u/s.173(2) Cr.P.C., and the documents and the evidence annexed with, it is very clear that there are sufficient grounds to proceed further. Accordingly, criminal revision case is dismissed. Consequently, connected Miscellaneous Petition is closed.

s/d-

Assistant Registrar(CS-III)

True Copy

Sub-Assistant Registrar

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To

1.The Inspector of Police
Kallavi Police Station
Krishnagiri District

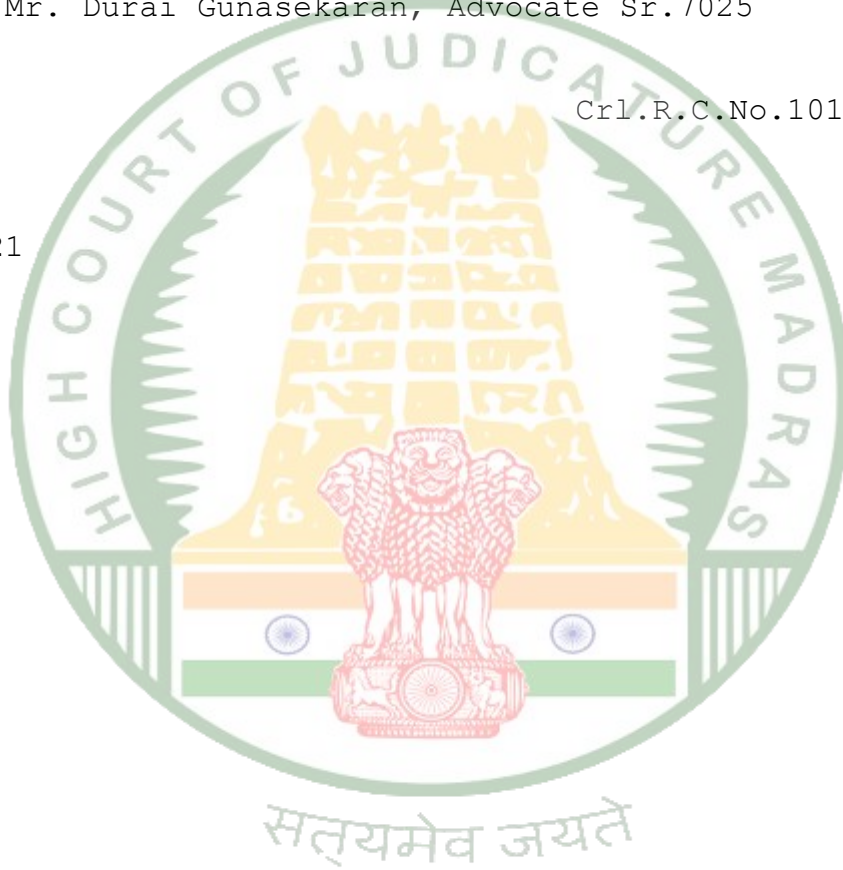
2.The Sessions Judge,
Fast Track Mahila Court, Krishnagiri.

3.The Public Prosecutor, High Court, Madras.

+ 1 cc to Mr. Durai Gunasekaran, Advocate Sr.7025

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