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BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

Reserved On : 17.12.2020

Delivered On : 08.01.2021

CORAM

THE HONOURABLE MRS. JUSTICE R. THARANI

Crl. R.C.(MD)No.402 of 2020

and

Crl.M.P.(MD)Nos.3535 and 3536 of 2020

1.M.Selvakumar
2.Muthukalai
3.Asothai
4.M.Ganesan
5.Kala @ Kalai Selvi
6.Sivan @ Sivajothi

.. Petitioners/Accused Nos.1 to 6

Vs.

1.State through the Inspector of Police,
Bodi Town Police Station,
Bodi.
(Crime No.942 of 2015) : 1st Respondent/Complainant

2.Dhanalakshmi : 2nd Respondent/De-facto complainant

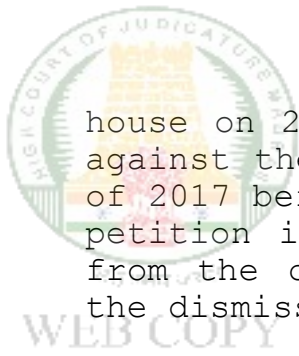
Prayer : This criminal revision case filed under Sections 397 and 401 of Cr.P.C., to call for the records from the lower Court and to set aside the order passed in Cr.M.P.No.1259 of 2019 in S.C.No.69 of 2017 dated 27.05.2020, on the file of the Mahila Court, Additional District Court, Theni.

For Petitioners	: Mr.T.K.Gopalan
For Respondent	: Mrs.Anandha Devi
	Government Advocate

ORDER

This petition has been filed to set aside the order passed in Cr.M.P.No.1259 of 2019 in S.C.No.69 of 2017 dated 27.05.2020, on the file of the learned Additional District Judge, Mahila Court, Theni.

2.The case against the petitioners is that the petitioners neglected to participate in the baby shower ceremony of his wife and due to the frustration, the wife committed suicide at her mother's



house on 24.12.2015. A case in Crime No.942 of 2015 was registered against the petitioners and the same was taken on file as S.C.No.69 of 2017 before the Mahila Court, Theni. The petitioners have filed a petition in Cr.M.P.No.1259 of 2019 for discharging the petitioners from the charges. The trial Court dismissed the petition. Against the dismissal order, the petitioner preferred this revision.

3.On the side of the petitioners, it is stated that the deceased was a highly educated lady earning monthly salary and living separately. She died only in her parents' house. She owns several lands and properties worth about several crores. The deceased's first husband had committed suicide.

4.It is stated that the lower Court failed to consider that A2, the father of the petitioner and A3, the mother of the petitioner, never lived with the deceased and never demanded dowry. A4 is the elder brother of the first petitioner. A5 is the wife of A4. Both of them got married long back and are living separately. They are falsely implicated in the case. A6 is the elder sister of the petitioner and the petitioners 2 to 6 are no way connected with the case and they are to be discharged.

5.it is further stated that the child in the womb of the victim was not subjected to DNA examination. The deceased sent a divorce notice to the first petitioner. In that notice, she has not mentioned about her advanced stage of pregnancy. The deceased and the first petitioner lived together only for 20 days after the marriage and subsequently, they got separated. The deceased went to Peravurani, Pudukkottai District and joined duty as a teacher in Government High School. In the observation mahazer, it is specifically mentioned that there is no material evidence available in the occurrence spot. It is alleged that the victim called upon the first petitioner through cell phone inviting him to participate in the baby shower ceremony and for that, the first petitioner demanded dowry and refused to attend the function. Both the cell phone numbers of the deceased and the first petitioner were not given by the prosecution.

6.It is stated that the defacto complainant has given a statement before the Revenue Divisional Officer that he heard the alarm of the victim. A person committing suicide could not have set an alarm. The deceased has not committed suicide as alleged by the complaint. The defacto complainant and her son got the properties of the deceased transferred to their names through a registered deed. Civil litigations were initiated against the deceased concerning the property before the Taluk Munsif Court, Bodi. It is alleged that the first petitioner is having illicit intimacy with another lady and got a child through that lady. But the prosecution has failed to examine that other lady. There is no material to prove the said allegation. Only to avoid the petitioner from claiming the property



as the legal heir of the victim, this false case is foisted against the petitioners. The defacto complainant and her relatives are the sole reason for the death of the deceased Devi. For the above reasons, the petitioners are to be discharged from the charges.

7. On the side of the respondents, it is stated that on 24.05.2004, the deceased Devi was married to one Dhanushkodi. They were not blessed with a child and hence, the said Dhanushkodi committed suicide in the year 2010. Subsequently, the deceased joined in the Government school in the year 2014 and then a second marriage was solemnized between the deceased and the first petitioner. All the accused demanded dowry and harassed her. Due to their harassment, she committed suicide by hanging on 24.12.2015. A case in Crime No.942 of 2015 was registered under Section 174 of Cr.P.C., by the respondent Police.

8. The petitioners 2 and 3 were parents of A1 and A4 is the brother of A1. A5 is the wife of A4 and after investigation, the chargesheet was filed under Section 304 of IPC. The case was taken on file in S.C.No.69 of 2017. The defacto complainant approached this Court by filing a petition in Crl.O.P.(MD)No.12989 of 2018 and obtained a direction for completion of trial within a stipulated time. The petitioners have filed a petition in Cr.M.P.No.676 of 2017 under Section 227 of Cr.P.C. Only after perusal of documents and after giving reasonable opportunity to both the parties, the trial Court has dismissed the petition. At the time of death, the deceased was at the advanced stage of pregnancy I.e. 9 months and she was in her parental house, which is quite natural. The first petitioner was invited for baby shower ceremony. There is *prima facie* case made out against the petitioners. Only to escape the clutches of law, the petitioners have filed this petitions and prayed the petition to be dismissed.

9. The allegation against the petitioners is that the petitioners 2 to 6 were residing separately and living far away from the deceased. However, the addresses of the petitioners reveals that they were all residing in Chekkanoorani, Madurai District. Whether the petitioners harassed the deceased demanding dowry can be decided only after the completion of the trial. It is stated that the victim was nine months pregnant at the time of death, it is quite natural for a pregnant lady to be at her mother's house. Whether the deceased sent a divorce notice to the first petitioner, whether the deceased called upon the first petitioner to attend the baby shower ceremony and whether the defacto complainant is having any motive against the petitioners can be decided only after the completion of the trial. Already this Court has passed an order in Crl.O.P.(MD) No.12989 of 2018 for speedy disposal of the case. The petitioners can raise all the above mentioned points during the trial. Hence, there is no sufficient grounds to discharge the petitioners at this stage.



10.The petitioners can approach the trial Court and contest the case on merits and in accordance with law. There is no sufficient reason to entertain the petition at this stage. There is no discrepancy in the order passed by the trial Court.

11.In the view of the above, this Criminal Revision Case is dismissed and the order passed in Cr.M.P.No.1259 of 2019 in S.C.No.69 of 2017 dated 27.05.2020, on the file of the learned Additional District Judge, Mahila Court, Theni is confirmed. Consequently, connected miscellaneous petitions are closed.

Sd/-

Assistant Registrar (CS-II)

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/ /2021

Sub Assistant Registrar(CS)

Mrn

NOTE: In view of the present lock down owing to COVID-19 pandemic, a web copy of the order may be utilized for official purposes, but, ensuring that the copy of the order that is presented is the correct copy, shall be the responsibility of the advocate/litigant concerned.

To

1. The Additional District Judge, Mahila Court, Theni
2. The Inspector of Police,
Bodi Town Police Station,
Bodi.
3. The Additional Public Prosecutor,
Madurai Bench of Madras High Court,
Madurai.

Crl. R.C.(MD)No.402 of 2020

08.01.2021

DKS (CO)

CS(25.01.2021) 4P 4C