



BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

Reserved on : 04.03.2021

Pronounced on : 07.04.2021

CORAM

WEB COPY

THE HONOURABLE MR.JUSTICE K.MURALI SHANKAR

CRL.RC(MD) .No. 121 of 2017

K.J. Pravin Kumar

: Petitioner / Accused No.1

Vs.

State rep. by the
Inspector of Police,
All Women Police Station,
Madurai South, Madurai City,
Madurai.

(Crime No. 19 of 2012)

: Respondent / complainant

PRAYER:- Criminal Revision Case filed under Section 397 r/w. 401 Cr.P.C., to call for the records in Cr.M.P.No.3156 of 2015 on the file of the learned Judicial Magistrate, Additional Mahila Court, Madurai in C.C.No. 125 of 2014 and set aside the order dated 03.12.2016.

For petitioner : Mr. Karthik Ramkumar

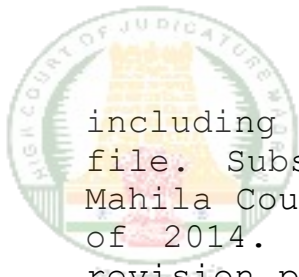
For respondent : Mrs. S.E. Veronica Vincent

Government Advocate (Crl. Side)

ORDER

This Criminal Revision case is directed against the order passed in Crl.M.P.No.3156 of 2015 in C.C.No.125 of 2014, dated 03.12.2016 on the file of the Court of the Judicial Magistrate, Additional Mahila Court, Madurai, dismissing the petition filed under Section 239 Cr.P.C.,

2. The revision petitioner is the accused in C.C.No.125 of 2014 on the file of the Additional Mahila Court, Madurai. The defacto complainant has lodged a complaint on 27.09.2012 against the revision petitioner and two others and on the basis of the said complaint, First Information Report came to be registered in Crime No.19 of 2012, on the file of the respondent police under Sections 417, 420 IPC and Section 4 of Tamil Nadu Prohibition of Harassment of Women Act. It is not in dispute that the respondent police after completing the investigation has lodged a final report before the Court of Judicial Magistrate No.I, Madurai under Sections 417 and 506(ii) IPC, against three accused

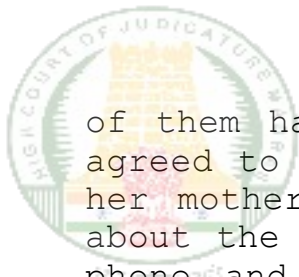


including the revision petitioner and that the case was taken on file. Subsequently, the case was transferred to the Additional Mahila Court, Madurai and the same was taken on file in C.C.No.125 of 2014. After appearance, the first accused, who is the revision petitioner herein, has filed a petition under Section 239 Cr.P.C., in Cr.M.P.No. 3156 of 2015 seeking orders for discharge. The learned Magistrate, after conducting enquiry, has passed the impugned order on 03.12.2016 dismissing the application for discharge. Aggrieved by the said order of dismissal, the first accused has come forward with the present revision.

3. Whether the impugned order dated 03.12.2016, passed in Crl.M.P.No.3156 of 2015 on the file of the Court of the Judicial Magistrate, Additional Mahila Court, Madurai, is liable to be set aside? is the point for consideration.

4. The case of the revision petitioner is that the revision petitioner and his family members have been falsely implicated in the above case, that the statements of the witnesses are not sufficient to prove that the defacto complainant and the first accused were on love, that the document alleged to have been executed by the first accused consenting to marry the defacto complainant has not been produced along with the charge sheet, that the prosecution has also not produced any documents or materials to show that the defacto complainant was cheated by the first accused, by giving false promise of marriage, that neither the complaint nor the statement of witnesses contained any averments that the first accused had threatened the defacto complainant or any other persons connected with the complainant, that the second witness shown in the list is the mother of the complainant and the listed witnesses 3 and 4 are all interested witnesses, that the prosecution has also not produced any documents or records to show that the first accused has contacted the complainant through mobile phone and sent messages and that since there are no materials available to proceed further and to frame charges for the offences under Sections 417 and 506(ii) IPC, the first accused is entitled to be discharged from the above proceedings.

5. As already pointed out, though the First Information Report was registered for the offences under Sections 417 and 420 IPC and under Section 4 of Tamil Nadu Prohibition of Women Harassment Act, the charge sheet was laid only for the offences under Sections 417 and 506(ii) IPC. The prosecution case is that the complainant was pursuing her first year ECE Diploma Course in Latha Mathavan Polytechnic College in the year 2010, that the complainant and first accused got introduced to each other on 06.05.2009 and fell in love as they belonged to same community, that they were in love for 18 months and during that period, both



of them had gone to several places, that the first accused had agreed to marry the complainant in writing and in the presence of her mother, that the first accused family after coming to know about the love affairs, they had contacted the complainant over phone and threatened her not to speak any more, that when the complainant and her mother visited the first accused house at Pangajam Colony, the other accused had prevented them from meeting the first accused and abused in filthy language and threatened them with dire consequences and that the accused had committed the offences punishable under Sections 417, 506 (ii) IPC.

6. The revision petitioner, in his revision memorandum, has stated that himself and the defacto complainant were having friendly relationship, that the defacto complainant alone has proposed to the first accused, but the first accused has refused to accept the same, that subsequently, the defacto complainant tortured the first accused in the name of love and that the first accused came to know that the complainant had a connection with one Saravanesh previously and after making a suicide drama, the defacto complainant had managed to extract huge amount from the said Saravanesh and his family members in the name of medical expenses and damages.

7. The learned counsel appearing for the revision petitioner would contend that the defacto complainant did not submit any relevant records including the deed of marriage alleged to have been executed by the first accused.

8. As rightly contended by the learned Government Advocate (Crl. Side), the respondent police after conducting investigation and satisfied with the materials collected / gathered, they have laid the charge sheet question against the revision petitioner and other accused. Under Section 239 Cr.P.C., if there is no ground for presuming that the accused has committed an offence, the charges must be considered to be a groundless, which is the same thing as saying that there is no ground for framing the charges. Under Section 240 Cr.P.C., the Magistrate, after considering the entire material referred to in Section 239 Cr.P.C., is of the opinion that the accused has committed an offence, then he shall frame a charge.

9. In case, where the material on the record discloses offence, the accused cannot be discharged. Where the complaint, statement of witnesses and documents filed along with the final report show prima facie case to frame charges, the accused would be discharged. In the case on hand, the Magistrate, after perusing the report and the statements recorded under Section 161 Cr.P.C., has specifically observed that a prima facie case was disclosed and concluding so, dismissed the discharge application.



10. The next contention of the revision petitioner is that his complaint against the defacto complainant that she had cheated one Saravanesh and his family members by extracting money was not at all enquired into and the same was not considered by the learned Magistrate. It is not the specific case of the revision petitioner that he has produced any material or evidence to substantiate his complaint as against the defacto complainant and moreover, as rightly contended by the prosecution there is absolutely no connection to the case on hand.

11. Considering the above, the decision of the learned Magistrate dismissing the discharge application cannot be found fault with. Hence, this Court concludes that the revision is devoid of merits and the same is liable to be dismissed. In the result, the Criminal Revision Case is dismissed.

Sd/-

Assistant Registrar(AE)

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/ /2021

Sub Assistant Registrar(CS)

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To

1.The Judicial Magistrate, Additional Mahila Court, Madurai.
2.The Chief Judicial Magistrate, Madurai.
3.The Inspector of Police,
All Women Police Station,
Madurai South, Madurai City,
Madurai.

4. The Additional Public Prosecutor,
Madurai Bench of Madras High Court, Madurai.

Copy to
The Section Officer, Criminal Section(Records),
Madurai Bench of Madras High Court, Madurai.(2 copies)

order made in
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07.04.2021

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TR(05.05.2021) 4P 7C

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