



IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 12.04.2022

CORAM

WEB COPY

THE HON'BLE MR.JUSTICE SATHI KUMAR SUKUMARA KURUP

CRL.O.P.NO.197 OF 2019

AND

CRL.M.P.NOS.109 & 111 OF 2019

1.S.Rajendra Babu

2.Subramaniam

3.Subbammal

...Petitioners / Accused 1 to 3

Versus

1.State Represented by

The Inspector of Police,

W-4, All Women Police Station,

Anna Nagar, Chennai - 600 040. ...1st Respondent / Complainant

2.C.Ramba

...2nd Respondent / Defacto
Complainant

Prayer : This Criminal Original Petition has been filed under Section 482 of Criminal Procedure Code to call for the records and quash the charge sheet in S.C.No.268 of 2017 pending on the file of the learned Mahila Court, Chennai.

For Petitioners : Mr.Syed Sibghatulla
for K.Balasubramaniam

For Respondents : Mr.R.Vinoth Raja
Government Advocate
(Crl. Side) for R-1
Mrs.C.Ramba (Party-in-person)

ORDER

This Criminal Original Petition has been filed seeking to quash the charge sheet in S.C.No.268 of 2017 pending on the file of the learned Mahila Court, Chennai.

2. The learned Counsel for the Petitioners invited the attention of this Court to the complaint preferred by the second



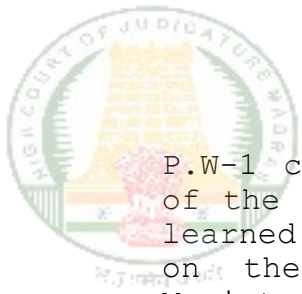
Respondent/defacto Complainant which is referred to Page No.23. Subsequently, after investigation, charge sheet was laid before the learned Metropolitan Magistrate - V as C.C.No.15178 of 2014 under Sections 294 (b), 323, 506 (i), 509 r/w. Section 4 of Tamil Nadu Prohibition of Women Harassment Act. At the time of framing charges, Section 323 of IPC alone was framed.

2.1. It is the submission of the learned Counsel for the Petitioners that the defacto Complainant had improved her version by incriminating her father-in-law as though he committed rape on her, at this stage the learned Metropolitan Magistrate passed orders that this case had to be tried by the Sessions Court. Therefore, for framing of charges sent to the Court of the learned Sessions Judge, Mahila Court at Chennai. It is the contention of the learned Counsel for the Petitioners that originally the complaint was filed under the Provisions of Domestic Violence Act, subsequently, the case was registered under Section 4 of the TNPWH Act. The Petitioners before this Court are the husband and parents of the Husband stated that in each stage of the investigation and before the learned trial Judge, deposition of the defacto Complainant had improved her version. Therefore, the learned Magistrate had referred the case to learned Sessions Judge, Fast Track Mahila Court. At the time of occurrence, father-in-law is aged about 80 years had to face the charges under Section 376 of IPC and now he is aged 90 and he was taken on stretcher to the Court of the learned Judicial Magistrate during trial for the offence under Section 4 of the TNPWH Act. Therefore, the learned Counsel for the Petitioners submitted that the charge sheet is to be quashed.

3. The learned Counsel for the second Respondent/defacto Complainant who is the Party-in-person invited the attention of this Court to the line of the complaint filed at the earliest stage, she had made averments regarding the overt act of the father-in-law towards her.

3.1. It is the further submission of the learned Counsel for the second Respondent/defacto Complainant that she was born and brought up in village. Only after her marriage, she came to live with her husband in the matrimonial home at Chennai. At the time of marriage, she was given jewels as per the demand of husband and her in-laws and thereafter for constructing new house, they demanded more money as dowry. Therefore, the complaint was emerged under the related issues. Now at this stage, this Court shall not exercise discretion under Section 482 of Cr.P.C., to quash the case.

4. The learned Government Advocate (Crl. Side) submitted that originally the trial commenced before the Court of the learned Metropolitan Magistrate-V in C.C.No.391 of 2014. When



P.W-1 commenced her deposition, she had deposed the overt acts of the father of her husband as per her complaint whereupon the learned Presiding Judge had put a question to the P.W-1. Based on the answers given by P.W-1, the learned Metropolitan Magistrate has passed orders that this is a fit case for trial before the Sessions Court.

5. The learned Counsel for the Petitioners at this stage submits that the Court had framed charges twice and therefore, the charges have to be dropped. The said submission of the learned Counsel for the Petitioners cannot be considered at this stage as the trial Court has the discretion to consider and pass appropriate Orders based on the materials placed before the Court at the time of trial.

6. Adverting to the vehement objection of the Party-in-person, who is the victim of the crime, is that the charge under Section 376 of IPC was framed on basis of the order passed by the learned Magistrate only in the sworn statement of the defacto Complainant without any materials. She relied the complaint at the earliest page No.35. Therefore, the argument of the learned Counsel for the Petitioners is rejected. This is not a fit case for quashing of FIR at this stage of Sessions' trial. At the same time, considering the age and health issue of the father-in-law and mother-in-law, their identity not being disputed, the learned trial Judge shall pass appropriate orders on the petition filed by the learned Counsel for the Petitioners/Accused at the time of trial.

With the above direction, this Criminal Original Petition is dismissed. Consequently, connected Miscellaneous Petitions are closed.

Sd/-
Assistant Registrar(CS-V)

// True Copy //

Sub Assistant Registrar

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To

- 1.The Presiding Officer,
Mahila Court,
Chennai.
- 2.The V Metropolitan Magistrate,
Egmore, Chennai.



3.The Inspector of Police,
W-4, All Women Police Station,
Anna Nagar, Chennai - 600 040.

4.The Public Prosecutor,
High Court, Madras.

+2ccs to M/s.K.Balasubramaniam, Advocate Sr.No.25386

+5ccs to M/s.C.Ramba, Party-in-Person Sr.No.25033

Cr1.O.P.No.197 of 2019

RR(CO)
RVM(11/05/2022)