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IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 19.04.2022

CORAM:

THE HONOURABLE MR.JUSTICE R.PONGIAPPAN

Crl.RC.No.364 of 2022

Sakthivel ... Petitioner/Sole accused

vs.

State by Inspector of Police,
Taluk Police Station,
Pollachi

... Respondent

PRAYER: Criminal Revision filed under Sections 397 & 401 of Cr.P.C. praying to call for the records pertaining to the order dated 21.12.2021 made in CMP.No.4636 of 2021 in SC.No.72 of 2021 on the file of the Magalir Neethimandram(Mahila Court), Coimbatore and to set aside the same by allowing this criminal revision petition.

For petitioner : Mr.D.R.Arun Kumar

For Respondent : Mr.Leonard Arul Joseph Selvam,
Government Advocate(crl.side)

ORDER

The present criminal revision has been filed to call for the records pertaining to the order dated 21.12.2021 made in CMP.No.4636 of 2021 in SC.No.72 of 2021 on the file of the Magalir Neethimandram(Mahila Court), Coimbatore and to set aside the same by allowing this criminal revision petition.

2. The case of the petitioner is that he is the sole accused in SC.No.72 of 2021. The respondent police filed final report as against petitioner, alleging that the petitioner committed an offence punishable under Sections 302, 201 & 498(A) of IPC. While at the time the said case is posted for framing charges, the petitioner filed a petition under Section 227 of Cr.P.C. saying that the averments found in the final report does not disclose prima facie case for the offence punishable under Sections 302, 201 and 498(A) of IPC and therefore the petitioner is liable to be discharged from the above said case. The learned



Sessions Judge, Mahila Court by order dated 21.12.2021 passed the impugned order wherein he dismissed the petition filed by the petitioner saying that there was a prima facie case for the alleged occurrence. Challenging the said impugned order, the petitioner is before this Court with the present criminal revision.

3. The learned counsel appearing for the petitioner while at the time of submitting his case before this Court, restricted his argument in respect to the offence under Section 498(A) of IPC alone. According to him, the statement recorded under Section 161 Cr.P.C. from the witnesses, does not show a prima facie case for the offence under Section 498(A) of IPC and therefore he may be discharged for the said offence alone.

4. On considering the said submissions with the relevant records, it is the settled proposition that if the court comes to the conclusion that commission of the offence is the probable consequence, a case for framing of charge exists at the stage of framing the charge. In otherwise, the probative value of the materials on record cannot be gone into. At the time of framing a charge, it is not necessary for the prosecution to establish beyond all reasonable doubts that the accusation which they are bringing against the accused person is bound to be brought against him. Purpose of Section 227 and 229 of code is to ensure that the court should be satisfied that the accusation made against the accused is not frivolous and that there is some material for proceeding against him. In fact, in a case of T.V.Sarma Vs. R.Meeriah reported in AIR 1980 AP 219, the Hon'ble Full Bench of Andhra High Court, in respect of discharge of accused, held as follows:

7. Discharge of accused - The Sessions Judge is bound to discharge the accused in the following cases.

- (a) where the evidence produced is not sufficient
- (b) where there is no legal ground for proceeding against the accused;
- (c) where no sanction has been obtained
- (d) where the prosecution is clearly barred by limitation; or
- (e) where he is precluded from proceeding because of a prior judgment of High Court

5. Now applying the above referred settled propositions with the case in hand, here it is a case, admittedly the deceased is the wife of the petitioner. In respect to the offence under Section 498(A) of IPC. In the statement given by one Anandaraj who is the father of the deceased, it was stated that after the marriage, the accused



regularly quarrelled with his daughter and due to the same, his daughter returned to his house and later after consoling his daughter, she went to the petitioner's house. Though it was stated in the statement as the same is not due to the dowry, in order to attract 498(A) of IPC, following ingredients would be sufficient

(a) that the victim was a married lady (she may also be a widow), (b) that she has been subjected to cruelty by her husband or the relative of her husband (c) that such cruelty consisted of either (1) harassment of the woman with a view to coerce meeting a demand for dowry, or (2) a wilful conduct by the husband or the relative of her husband of such a nature as is likely to lead the lady to commit suicide or to cause grave injury to her life, limb or health; (d) that such injury aforesaid may be physical or mental

6. Here it is a case, only due to the act committed by the petitioner, she left the matrimonial home, also it is the stand taken by the accused that she committed suicide. Therefore, in the present case, the stand taken by the petitioner is sufficient to accept the case of the prosecution that before the occurrence, the petitioner committed cruelty to the deceased and therefore, it would not necessary to discharge the petitioner from the offence under Section 498(A) of IPC.

7. Accordingly, the criminal revision petition is dismissed.

Sd/-
Assistant Registrar (CS-III)

//True copy//

Sub Assistant Registrar

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To

1.The learned Judge,
Magalir Neethimandram (Mahila Court),
Coimbatore

2.The Inspector of Police,
Taluk Police Station,
Pollachi



3.The Public Prosecutor,
High Court of Madras

+1cc to Mr.D.R.Arun Kumar, Advocate SR.No.26590

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SKM(CO)
GMY(05/05/2022)