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Crl.R.C.No. 362 of 2022

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 24.06.2022

CORAM:

THE HON'BLE MR. JUSTICE D. BHARATHA CHAKRAVARTHY

Crl.R.C.No. 362 of 2022
and
Crl.M.P.No. 3772 of 2022

1.Undru Appaji
2.Nalla Ganapathi
3.Sabathi Srinu
4.Nalla Gayathri
5.Sabbathi Anantha Lakshmi

... Petitioners

Versus

State represented by
The Inspector of Police,
Yanam Police Station,
Puducherry.
[Crime No. 166 of 2012]

... Respondent

Criminal Revision Case filed under Section 397 read with Section 401 of Cr.P.C., to call for the records in Crl.M.P.No. 84 of 2019 in SC.No. 37 of 2019 on the file of the learned III Additional Sessions Judge, Puducherry and set aside the order dated 03.02.2022 and discharge the petitioners by allowing this revision.

For Petitioner : Mr. H. Rajasekar

For Respondent : Mr. V. Balamurugan
Public Prosecutor (Pondicherry)
Assisted by Mr.Alexander



Crl.R.C.No. 362 of 2022

WEB COPY

ORDER

This Criminal Revision Case is filed by the petitioners/A-3 to A-7 aggrieved by the order dated 03.02.2022 passed in Cr.M.P.No. 84 of 2019 in S.C.No. 37 of 2019 on the file of the learned III Additional Sessions Judge at Puducherry, in and by which the discharge petition filed by the petitioners was dismissed.

2. The learned counsel appearing for the petitioners would submit that the petitioners/accused were implicated in a false case for the alleged offences under Sections 376, 312, 417 506(ii) read with Section 34 IPC and under Section 4 of Dowry Prohibition Act. The entire allegations raised by the prosecution may not be attributed against the petitioners who are brothers and sisters of the first accused. Even though the Accused 2 to 7 have filed the petition for discharge and it was dismissed by the Court below, the second accused has not preferred any Revision and this revision is filed by the petitioners/A-3 to A-7. The only allegations against these petitioners are that the de-facto complainant/Victim allegedly approached them and stated that A-1 assured to marry her and with such false promise had sexual intercourse with her. When the de-facto complainant asked



CrI.R.C.No. 362 of 2022

WEB COPY

them to arrange for their marriage, A-2 had allegedly demanded dowry of Rs.10,00,000/- to perform their marriage and further stated that unless the de-facto complainant/victim pay the amount, their marriage will not be performed.

3. According to the learned counsel, there is no in detail as to when the amount was demanded as dowry, on what date and time. These material particulars were not mentioned in the complaint. As a matter of fact, A2 to A7 and A1 are living separately and therefore, the petitioners case will squarely fall within the purview of discharge. The allegations raised against the petitioners are vague and on mere suspicion, charge sheet has been filed.

4. Be that as it may, in this case, strangely, even after the first incident when the de-facto complainant became pregnant, once again A1 had intimacy with her and made her pregnant. The trial Court has noticed the fact that by the time the case was registered, a male child was born to the defacto complainant and even the birth certificate was marked before the trial court. Therefore, taking into consideration that the accused



Crl.R.C.No. 362 of 2022

WEB COPY

refused to perform the marriage of the de-facto complainant and A-1 by demanding dowry, the trial court dismissed the application for discharge. Even as per the dictum laid down by the Hon'ble Supreme Court, a strong suspicion is sufficient to frame charges against the accused and therefore, I am of the view that the trial Court has rightly rejected the discharge petition. Therefore, this Criminal Revision Case is dismissed on the following terms:-

(i) the order dated 03.02.2022 passed by the learned III Additional Sessions Judge, in Cr.M.P.No. 84 of 2019 in S.C.No. 37 of 2019 is upheld.

(ii) However, the petitioners will be at liberty to raise all the contentions raised by them in the discharge petition during the time of the trial and the same shall be taken into consideration in accordance with law and on its own merits without being influenced by any of the observations made by this Court in the present order for the purpose of deciding the discharge petition.

24.06.2022

Internet : Yes/No

Index : Yes/No

msm



Crl.R.C.No. 362 of 2022

WEB COPY

To

1. The III Additional Sessions Judge, Puducherry.
2. The Inspector of Police,
Yanam Police Station, Puducherry.
3. The Public Prosecutor, High Court, Madras.



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Crl.R.C.No. 362 of 2022

D. BHARATHA CHAKRAVARTHY, J.

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Crl.R.C.No. 362 of 2022
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