



IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 21.01.2022

CORAM

THE HONOURABLE MR.JUSTICE A.D.JAGADISH CHANDIRA

Crl.R.C.No.907 of 2021

V.Karthick

...Petitioner/Complainant

Vs.

The Inspector of Police (Crime),
All Women Police Station,
Tambaram.

...Respondent

PRAYER: The Criminal Revision is filed under Section 397 & 401 of Cr.P.C., to set aside the order passed in C.M.P.No.2380 of 2021 on the file of the Judicial Magistrate Court No.1 at Tambaram dated 13.10.2021.

For Petitioner : Mr.K.Nagarajan
for Mr.K.Muruganantham

For Respondent : Mr.S.Sugendran,
Government Advocate(Crl.Side)

O R D E R

(This case has been heard through video conferencing)

The Revision has been filed against the dismissal of the petition filed under Section 156 (3) Cr.P.C seeking relief to register an FIR based on the complaint dated 01.07.2021.

2. The case of the prosecution is as under:-

(a)The petitioner had given a complaint to the respondent/ police on 01.07.2021. The allegation in the complaint is that he had married one Vanitha on 04.09.2020 at Sree Velmurugan Thirukovil, Hashinapuram, Chennai in accordance with the Hindu rites, customs and rituals. At the time of marriage, 7 ½ sovereign of gold were presented by the petitioner and he had also incurred an expenditure of Rs.3,00,000/- towards marriage. After the marriage, both had started their matrimonial life at the petitioner's house at Tambaram Sanatorium and that Vanitha was taking treatment for infertility at the Indu Mission Hospital and Ramachandra Hospital, Porur. During April 2021, mother of the said Vanitha, had requested the petitioner to send her daughter to native place to perform religious obligations and at her request, he had sent his wife Vanitha to her village, however, she did not return back to the matrimonial home and later, on enquiry, he came to know that the said Vanitha had



married one Muthumanickkam on 21.06.2021 in her native place.

(b) The petitioner had given a complaint against the said Vanitha for having defrauded him. The respondent had taken up the case in C.S.R.No.296 of 2021 on 08.07.2021 and since, no further action was taken, the petitioner had filed a complaint under 156(3) Cr.P.C before the learned Magistrate I, Tambaram and the learned Judge, finding that no prior application under Section 154 (1) and 154 (3) was filed before filing a petition under 156(3), dismissed the petition as not maintainable, against which the present Revision has been filed.

3. Learned counsel appearing for the petitioner would submit that the petitioner had married one Vanitha on 04.09.2020 at Sree Velmurugan Thirukovil at Hasthinapuram, Chennai and at the time of marriage, the petitioner had given 7 ½ Sovereigns of gold and the petitioner had also incurred an expenditure of Rs.3,00,000/- towards marriage and thereafter, the petitioner had also taken her for treatment to Indu Mission Hospital and Ramachandra Hospital, Porur for conception. He would further submit that at the request of the mother of petitioner's wife, the petitioner had sent his wife to native place at Ramanathapuram to perform the religious obligations however, she did not come back and later, the petitioner came to know that his wife had married one Muthumanickkam son of Ramachandran and thereby, the petitioner had given a complaint to the jurisdictional police at Tambaram. He would also submit that the petitioner's wife did not appear for enquiry and since, no further steps were taken by the respondent/police, the petitioner had approached the Court by filing Application under Section 156(3) Cr.P.C, but, the learned Magistrate, by merely holding that the petitioner had not approached the higher officials under Section 154(3) Cr.P.C prior to filing the complaint before the Court, had wrongly dismissed the petition and thereby, he craves indulgence of this Court.

4. Mr. S. Sugendren, learned Government Advocate (Crl. Side) would submit that though the petitioner's complaint dated 01.07.2021, was given to the respondent only on 08.07.2021, even prior to that on 05.07.2021, the respondent had received the complaint from the wife of the petitioner alleging harassment and criminal breach of trust. The petitioner's wife, in her complaint dated 03.07.2021, had stated that the petitioner and her relatives have sold 35 sovereigns of jewels given by her parents at the time of marriage, for medical expenses of the petitioner and she had further alleged that the petitioner and his parents had demanded Rupees five lakhs for the medical expenses of the petitioner and she had also stated that the petitioner is mentally retarded. He would further submit that based on the complaint received on 05.07.2021, the respondent had summoned the petitioner and as a counter, the petitioner had given a complaint only on 08.07.2021, though it is dated



01.07.2021. He would also submit that the respondent had taken up the complaint of the petitioner for enquiry in C.S.R.No.296 of 2021 and they have also summoned the wife of the petitioner to appear for enquiry on 10.07.2021, however, even before the enquiry could proceed further, the petitioner had hastily approached the Judicial Magistrate under Section 156 (3) without exhausting other remedies. He would further submit that the learned Judicial Magistrate, rightly finding that the petitioner had not exhausted the remedies, had dismissed the application. He would submit that on appearance of the petitioner with necessary details, the police are ready to conduct enquiry and if any offence is made out, they are ready to register the case in accordance with law.

5. Heard the learned counsel for the parties and perused the materials available on record.

6. In this case, though the complaint of the petitioner is dated 01.07.2021, it had been given to the respondent only on 08.07.2021. It is the case of the respondent that even prior to such complaint, the petitioner's wife one Vanitha had given a complaint on 05.07.2021 and based on that, the police had called him for enquiry. Moreover, as rightly observed by the learned Magistrate, the petitioner, by bypassing the procedure laid down in Section 154 (3) Cr.P.C has straightaway approached the learned Magistrate. Therefore, this Court is of the opinion that the complaint before the learned Magistrate was given only to preempt the respondent from taking any action against him.

7. Accordingly, the Criminal Revision stands dismissed. However, since, there are counter complaints, one by the wife received on 05.07.2021 and another, by the petitioner on 08.07.2021, regarding matrimonial dispute, the respondent police shall conduct preliminary enquiry and proceed in accordance with law.

Sd/-
Assistant Registrar(CO)

//True Copy//

Sub Assistant Registrar

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To

1. The Judicial Magistrate Court No.1,
Tambaram.



2. The Inspector of Police(Crime),
All Women Police Station,
Tambaram.

3. The Public Prosecutor,
High Court,
Madras.

+1cc to Mr.K.Muruganantham, Advocate, S.R.No.3803

Crl.R.C.No.907 of 2021

GPL(CO)
RGA(11/02/2022)