



Crl.R.C.No.1384 of 2022

IN THE HIGH COURT OF JUDICATURE AT MADRAS

Dated : 02.11.2022

CORAM:

THE HONOURABLE MR. JUSTICE P.VELMURUGAN

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M.Soniya

...Petitioner

-Vs-

State represented by its

1. The Inspector f Police,
Selaiyur Police Station,
Chengalpet District.

2. Sudhan Bennites
3. Merlin Sharmila
4. Kanaka Bai

...Respondents

Prayer: Criminal Revision Case filed under Section 397 r/w 401 of Cr.P.C. to set aside the order passed by the learned Judicial Magistrate No.I, Tambaram, in Crl.M.P.No.5087 of 2022 dated 20.07.2022.

For Petitioner : Mr.V.Rajesh

For Respondent : Mr.S.Sugendran,

Additional Public Prosecutor for R1

Mr.C.K.M.Appaji for R2 to R4



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ORDER

The petitioner filed a complaint before the first respondent police against the respondents 2 to 4 on 08.10.2021 and CSR No.982/2021 also issued, but no case was registered against the respondents 2 to 4 based on the said complaint and no investigation was conducted by the first respondent police. Therefore the petitioner filed a petition under Section 156(3) Cr.P.C. before the learned Judicial Magistrate No.I, Tambaram, seeking to register FIR based on the complaint dated 08.10.2021 and to investigate the matter. The learned Magistrate by order dated 20.07.2022 dismissed the same, against which the complainant has filed the present revision.

2 Learned counsel appearing for the petitioner would submit that the marriage between one Alen Livin Kumar and the petitioner/complainant was solemnized on 04.06.2018 as per Christian rites and custom. The third respondent is sister-in-law, second respondent is her husband and fourth



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respondent is mother-in-law of the petitioner/complainant.

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2.1 At the time of marriage, the respondents 2 to 4 demanded Rs.15,00,000/-, jewels and utensils as dowry and collected Rs.3,00,000/- at the time of performing engagement and collected Rs.7,00,000/- during marriage and further it was agreed to pay Rs.5,00,000/- on demand of the respondents within six months from the date of marriage. Further the respondents 2 to 4 collected 16.5 sovereigns of gold and household articles. The petitioner started her matrimonial life in a rented house situated near by the house owned by the respondents 2 to 4 and they used to visit the house of the petitioner frequently and also harassed her by demanding more dowry and due to their ill advice, the husband of the petitioner also demanded dowry and harassed her. On 09.11.2020, husband of the petitioner gone for job and he did not return back home and when enquiry was made with the office of the husband, it was informed that he was absent from 01.11.2020.

2.2 The second respondent informed the petitioner that her husband sent a voice message and he will return after earning much money,



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being not satisfied with the information, the petitioner lodged complaint and FIR in Crime No.1194/2020 was also registered. The fourth respondent on compulsion took the petitioner and her son to Marthandam and the respondents are keeping her husband in their custody and hence the petitioner filed H.C.P.No.1849 of 2021, wherein direction was issued to secure the husband of the petitioner and to produce before the Judicial Magistrate No.I, Tambaram under intimation to the petitioner. On 08.10.2021, when the petitioner returned to Chennai, she found her household articles were stolen by R2 and R3 without her knowledge and consent, when she questioned the same, she was threatened by the respondents 2 to 4. Hence she filed the present complaint and the first respondent police even though received the complaint and issued CSR, subsequently has not registered the case and not investigated the matter.

2.3 The learned counsel further contended that the respondent police dragged the petitioner from pillar to post and made her to wait in the Police Station and there was no progress in the investigation. Thereafter, they obtained statement from the petitioner as if she received the jewels and



articles and not pressing the complaint, which is against law. The petitioner has mentioned the details of the articles in the complaint itself. The learned Magistrate without considering the averments made in the complaint, dismissed the same on the ground that the petitioner has not specifically stated the list of articles, which warrants interference of this Court.

3 The learned Additional Public Prosecutor appearing for the first respondent police would submit that the petitioner has withdrawn her complaint and she gave a letter to the respondent police requesting to drop further action. Therefore the first respondent police could not proceed further.

4 The learned counsel appearing for the respondents 2 to 4 submitted that the matter has been settled between the parties and the petitioner also accepted the same and now on hearing the ill advice of the counsel, she is retracting her earlier version.

5 In reply to the above submissions, the learned counsel for the



petitioner/complainant submitted that the petitioner has not voluntarily written the letter and only on force and coercion the respondents obtained the letter from the petitioner and the petitioner wants to proceed with the complaint against the respondents 2 to 4.

6 Heard the learned counsel on either side and perused the materials.

7 Admittedly the petitioner filed a complaint on 08.10.2021, based on which, CSR was also issued, but subsequently no case was registered and hence she approached the Magistrate and the learned Magistrate also dismissed the petition stating that there is no specific details about the list of articles.

8 It is seen that the petitioner made averments making allegations against the respondents 2 to 4 and the learned Magistrate failed to consider the same and simply dismissed the petition filed by the petitioner stating that there is no specific details about the list of articles. Once there is



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averments made in the complaint, which shows *prima facie* allegations of certain offence, it is the duty of the respondent police to register the case and investigate the matter and if they need any particulars, they can very well seek the same from the complainant and proceed with the investigation. Admittedly in this case, the first respondent police did not summon the petitioner/complainant and sought for any documents. Even otherwise as pointed out by the learned counsel for the petitioner when the petitioner in the complaint itself stated about details of the articles, it is for the first respondent police to investigate the matter as to whether any articles were provided to the petitioner at the time of her marriage and whether the same were kept in the house and whether she herself taken away the same. After investigation, if the first respondent police finds that the complaint is false and no materials, then a negative report can be filed before the jurisdictional Magistrate and the Magistrate can send notice to the defacto complainant and if the defacto complainant has not satisfied with the same, she can file protest petition and proceed with the complaint. The first respondent police after receipt of the complaint, have not registered the case and not followed the procedures and the learned Magistrate also failed to consider the same



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and dismissed the petition, which is perverse.

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9 Therefore, the criminal revision is allowed and the order of the learned Judicial Magistrate No.I, Tambaram, in Crl.M.P.No.5087 of 2022 dated 20.07.2022 is set aside and the first respondent police is directed to take the complaint on file and investigate the matter and file a charge sheet before the jurisdictional Magistrate in accordance with law.

02.11.2022

Index : Yes/No
Speaking Order/Non Speaking Order
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To

1. The Judicial Magistrate No.I, Tambaram.
2. The Inspector f Police, Selaiyur Police Station, Chengalpet District.
3. The Public Prosecutor, High Court of Madras.



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P.VELMURUGAN, J.,

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