



BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

DATED: 17.02.2022

CORAM:

THE HONOURABLE MR. JUSTICE G.K.ILANTHIRAIYAN

Crl.R.C. (MD) No.55 of 2022

and

Crl.M.P. (MD) .No.963 of 2022

WEB COPY

Esther Victoria

...Petitioner

Vs.

The State of Tamil Nadu through
The Sub Inspector of Police,
Nazareth Police Station,
Thoothukudi District.
(Crime No.178 of 2017).

...Respondent

PRAYER: Criminal Revision Case filed under Section 397 and 401 Cr.P.C. praying to call for the records and set aside the order dated 15.09.2021 passed in Cr.M.P.No.3107 of 2021 in C.C.No.25 of 2019 on the file of the Judicial Magistrate Court, Sathankulam and thus allow this Criminal Revision Petition.

For Petitioner : Mr.J.Barathan

For Respondent : Mr.K.Sanjai Gandhi
Government Advocate (Crl. Side)

ORDER

This Criminal Revision Petition has been filed challenging the order passed by the learned Judicial Magistrate, Sathankulam in Cr.M.P.No.3107 of 2021 in C.C.No.25 of 2019, dated 15.09.2021, thereby dismissing the petition filed by the petitioner under Section 302 of Cr.P.C., seeking permission to conduct the prosecution.

2. The petitioner is the defacto complainant. She lodged a complaint before the respondent and the same has been registered in Crime No.178 of 2017 for the offences under Section 294(b), 506(ii), 341, 420, 406 of IPC read with Section 4 of the Tamil Nadu Prohibition of Harassment of Women Act, 2002. After completion of the investigation, the respondent filed final report and the same has been taken cognizance in C.C.No.25 of 2019 on the file of the learned Judicial Magistrate, Sathankulam. While pending the trial, the petitioner filed a petition under Section 301 Cr.P.C to assist the prosecution and the same was allowed and the petitioner was permitted to assist the prosecution against the accused persons. However, again the petitioner filed a petition under Section 302 of



Cr.P.C to conduct the prosecution and the same was dismissed by the learned Judicial Magistrate, Sathankulam on the ground that already the petitioner was permitted to assist the prosecution and as such, the petition has no merit and also liable to be dismissed.

3. As rightly pointed out by the learned counsel for the petitioner, there is no bar for the petitioner to file a petition under Section 302 of Cr.P.C to conduct the prosecution, even though she was permitted to assist the prosecution.

4. Considering the above facts and circumstances, the impugned order passed by the learned Judicial Magistrate, Sathankulam in Cr.M.P.No. 3107 of 2021 in C.C.No.25 of 2019, dated 15.09.2021, is set aside. The request made by the petitioner in Cr.M.P.No.3107 of 2021 is remanded back for fresh disposal and the learned Judicial Magistrate, Sathankulam is directed to consider the request of the petitioner and pass orders on merits and in accordance with law within a period of four (4) weeks from the date of receipt of a copy of this order.

5. With the above observations, this Criminal Revision Case is allowed. Consequently, connected miscellaneous petition stands closed.

Sd/-

Assistant Registrar (CS-I)

// True Copy //

/ /2022

Sub Assistant Registrar(CS)

Lm

Note : In view of the present lock down owing to COVID-19 pandemic, a web copy of the order may be utilized for official purposes, but, ensuring that the copy of the order that is presented is the correct copy, shall be the responsibility of the advocate/litigant concerned.

To

1.The Judicial Magistrate Court,
Sathankulam.

2.The Sub Inspector of Police,
Nazareth Police Station,
Thoothukudi District.
(Crime No.178 of 2017).



3.The Additional Public Prosecutor,
Madurai Bench of Madras High Court,
Madurai.

+1 CC to M/s.T.R.JEYAPALAM, Advocate (SR-7188[F] dated 18/02/2022)

Cr1.R.C. (MD) No.55 of 2022
17.02.2022

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