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Crl. R.C. (MD)No.1049 of 2022

BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

DATE : 09.11.2022

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THE HONOURABLE MR. JUSTICE G.ILANGO VAN

CRL. R.C.(MD)No.1049 of 2022

and

CrI.M.P.(MD)No.13258 of 2022

Maru Ruba Raja

.. Petitioner

- Vs -

The State through
represented by
Inspector of Police,
Tenkasi Police Station,
Tenkasi District.
Crime No.503/2014

.. Respondents

PRAYER: Criminal Revision Case filed u/s 397 r/w 401 of the Code of Criminal Procedure, to call for the records pertaining to the order passed in Cr.M.P.No.3226 of 2022 in C.C.No.319 of 2018, dated 07.10.2022 on the file of the Judicial Magistrate, Tenkasi and to set aside the same.

For Petitioner : Mr.S.C.Herold Singh

For Respondents : Mr.S.Ravi

Additional Public Prosecutor

ORDER

This revision petition has been filed against the order that has been passed by the trial Court in Cr.M.P.No.3226 of 2022 in C.C.No.319 of



2018, dated 07.10.2022 by the learned Judicial Magistrate, Tenkasi, committing the trial to the Sessions Court as per Section 323 Cr.P.C..

2.The facts in brief:

(a) The revision petitioner was facing charges under Sections 294(b), 506(i) of IPC r/w Section 4 of Tamil Nadu Prohibition of Harassment of Women Act, 2002 and Sections 65 and 66 of the Information Technology Act, 2002. The victim was examined on 04.07.2022 before the trial Court as P.W.3. During the course of investigation, she has stated that she was subjected to rape at knife point by the accused person; was criminally intimidated and she was forced to sexual intercourse. She has also stated that the accused person demanded a sum of Rs.20 lakhs for not disclosing the aforesaid fact to others. He also spread the video through mobile phone. Finding that the allegations of rape criminal intimidation, attempt to murder were made by the accused person are serious, the trial Court thought it fit to commit the case to the Sessions Court for trial. An opportunity was given to the accused person over the aforesaid proceedings.

(b) He also filed a written statement, wherein he has stated that immediately after the aforesaid alleged occurrence, no medical examination



was undertaken. Now she also got married to some other person and she is living with her husband. At this length of time, she cannot be subjected to medical examination. Even at the initial stage of complaint, no allegation of rape, demand of money, criminal intimidation was made. No immediate complaint was also given over the aforesaid alleged rape. After a lapse of 8 years, for the first time before the Court, such an evidence has been given. The video that was recovered was not subjected to forensic examination. Even after the aforesaid alleged occurrence, the victim was continuously attending office.

(c) So after hearing both sides only, the trial Court thought it fit to commit the case for trial by the Sessions Court, after completing the official formalities.

3. The learned counsel for the revision petitioner submitted that improvement has been made by the victim in the course of evidence over the contents of the FIR and the statement recorded under Section 161 Cr.P.C., for the first time, after a lapse of 8 years. The victim is not a minor; and she is well educated and matured enough to disclose the alleged occurrence and anything that had been taken place, as deposed by her before



the Court. According to the learned counsel for the revision petitioner, non disclosure of such occurrence for about 8 years makes the victim's evidence doubtful and improbable also. He would further submit that even after the aforesaid alleged occurrence, she attended the office regularly. So this conduct on the part of the victim girl must be also taken into account by the Court.

4. Whether the aforesaid evidence, which was given by the victim girl before the trial Court, is improvement or not cannot be a matter for consideration by this Court and it is purely a matter for evidence before the competent Court concerned. When the victim girl has given a detailed information with regard to the alleged rape, criminal intimidation and demand of money, then the same must be thoroughly tried. Hence, the trial court thought it fit to commit the matter to the Sessions Court for trial, since the offence under Section 376 IPC cannot be tried by the learned Judicial Magistrate of the first class.

5. The next submission on the part of the revision petitioner is that the Court did not on its own take the aforesaid course, but the prosecution has filed a petition under Section 323 Cr.P.C., and that was acted upon.



According to the revision petitioner, the procedure adopted by the trial Court is not also legal. But, I am unable to agree with this line of argument, for the simple reason that the prosecution can very well maintain the petition and it is not necessary that only the Court is competent to take *suo motu* action. So this ground is not available to the revision petitioner.

6. By committing the case to the Sessions Court, no prejudice will cause to the accused/revision petitioner. He can very well make his submissions available to him legally and effectively at the appropriate time. Hence, I find absolutely that no ground is made out by the revision petitioner to entertain this revision. The order passed by the trial Court does not suffer from any illegality or irregularity. This petition deserves dismissal. Accordingly, this Criminal Revision Case is dismissed. Consequently, connected miscellaneous petition is closed. No costs.

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Internet : Yes/No
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G.ILANGO VAN, J.

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To

- 1.The Inspector of Police,
Tenkasi Police Station,
Tenkasi District.
Crime No.503/2014
- 2.The Judicial Magistrate Court, Tenkasi
- 3.The Additional Public Prosecutor,
Madurai Bench of Madras High Court,
Madurai.

CRL. R.C.(MD)No.1049 of 2022

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