



CrI.R.C. No.1328 of 2023

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IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 28.07.2023

CORAM

THE HONOURABLE MRS. JUSTICE **R.HEMALATHA**

CrI.R.C.No.1328 of 2023

1. Anitha

2. Dhavamani

...Petitioners

Vs.

State represented by
Sub-Inspector of Police
AWPS, Perambalaur
Cr. No.12/2019

... Respondent

Prayer : Criminal Revision Petition filed under Section 397 r/w 401 Cr.P.C. against the order dated 17.11.2022 passed by the Judicial Magistrate II, (FAC) Additional Mahila Court, Perambalur in CrI.M.P. No.5071 of 2021 in C.C. No.320 of 2020.

For Petitioner : Mr.Koviramalingam

For Respondent ; Mr. R.Vinothraja, GA (CrI. Side)



Crl.R.C. No.1328 of 2023

WEB COPY

ORDER

Challenging the orders 17.11.2022 passed by the Judicial Magistrate II, (FAC) Additional Mahila Court, Perambalur in Crl.M.P. No.5071 of 2021 in C.C. No.320 of 2020, the present petition is filed.

2. The petitioners are the accused 2 and 3 in C.C.No.320 of 2020. The respondent/complainant filed a final report against the accused 1 to 3 for the offences punishable under Sections 294(b) and 506(i) IPC. The learned Judicial Magistrate took cognizance of the offence and furnished copies of records to the accused 1 to 3 under Section 207 Cr.P.C. At that time, the accused 2 and 3 filed a petition under Section 239 Cr.P.C to discharge them from the offences punishable under Sections 294(b) and 506(i) IPC on the ground that the prosecution has not produced any materials to show that they have committed the offences under Sections 294(b), and 506(i) IPC. The learned trial court judge dismissed the said petition vide her orders dated 17.11.2022. Aggrieved over the same, the present petition is filed.



Crl.R.C. No.1328 of 2023

WEB COPY

3. Heard Mr.Koviramalingam, learned counsel for the petitioner and Mr. R.Vinothraja, learned Government Advocate for the respondent.

4. Mr.Koviramalingam, learned counsel for the petitioner relied on the decision in ***Union of India vs. Prafulla Kumar Samal & Anr reported in 1979 AIR 366*** , wherein it has been held thus:

(3) The test to determine a prima facie case would naturally depend upon the facts of each case and it is difficult to lay down a rule of universal application. By and large however if two views are equally possible and the judge is satisfied that the evidence produced before him while giving rise to some suspicion but not grave suspicion against the accused, he will be fully within his right to discharge the accused.



Crl.R.C. No.1328 of 2023

WEB COPY

He also relied on the decision in ***State of Karnataka vs. L.Muniswamy &***

Ors reported in 1977 AIR 1489, wherein it has been held thus:

"it would be a sheer waste of public time and money to permit the proceedings to continue against the respondent, when there is no material on the record on which any tribunal could reasonably convict them for any offence connected with the assault on the complainant"

Relying on these decisions, the learned counsel for the petitioners contended that since there are no evidence in the final report to show that the accused had committed the offence, they should be discharged.

5. Per contra, Mr.R.Vinothraja, learned Government Advocate (Crl. Side) for respondent contended that there are sufficient materials to show that the accused had committed the offences under Sections 294(b) and 506(i) IPC and the Magistrate is right in dismissing the petition filed by the revision petitioners.



Crl.R.C. No.1328 of 2023

WEB COPY

6. As regards the contention of the learned counsel for the revision petitioner that a perusal of the copy of the FIR and the statements recorded by the police under Section 161 (3) Cr.P.C shows that there is no prima facie case against the present revision petitioners for framing charges under Sections 294(b) and 506(i) IPC, it is settled law that at the time of framing of charge the court is required to evaluate the material and documents on record to decide whether there is a ground for presuming that the accused had committed the offence. There is no need to evaluate the sufficiency of evidence to convict the accused. It is also settled that at the stage of considering an application for discharge, the court must proceed on the assumption that the material which has been brought on record by the prosecution is true and evaluate the material in order to determine whether the facts emerging from the material taken on its face value, disclose the existence of the ingredients necessary to constitute the offence. The learned trial court judge had perused the entire material on records and had rightly come to a conclusion that there is a prima facie case against the present accused to frame charges under Sections 294(b) and 506(i) IPC. In the circumstances I do not see any



Crl.R.C. No.1328 of 2023

WEB COPY

reason to interfere with the findings recorded by the trial court and accordingly, the Criminal Revision Case is dismissed at the admission stage itself.

7. In the result,

- i. the Criminal Revision Case is dismissed.
- ii. the orders dated 17.11.2022 passed by the Judicial Magistrate II, (FAC) Additional Mahila Court, Perambalur in Crl.M.P. No.5071 of 2021 in C.C. No.320 of 2020 , is confirmed.

28.07.2023

Index: Yes/No
Internet: Yes/No
Speaking/Non-Speaking order

bga

To,

The Judicial Magistrate II,
(FAC) Additional Mahila Court, Perambalur



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Crl.R.C. No.1328 of 2023

R. HEMALATHA, J.
bga

Crl.R.C.No.1328 of 2023

28.07.2023