



Crl.R.C.No.710 of 2023

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 21.04.2023

CORAM

THE HONOURABLE MR. JUSTICE V. SIVAGNANAM

**CRL.R.C.NO.710 OF 2023 &
Crl.M.P.Nos.5534 & 5533 of 2023**

P. Sandilyan

.. Petitioner

Vs

State, represented by
the Inspector of Police,
All Women Police Station,
Cheyyar, Thiruvannamalai
District.
(Cr.No.10 of 2016)

... Respondent

Prayer: Criminal Revision Case filed under section 397 r/w.401 Cr.P.C. to call for the records pertaining to the order date 06.04.2023 and made in Crl.M.P.No.262 of 2023 in S.C.No.101 of 2022 on the file of the Sessions Judge, Mahalir Neethimandram, Thiruvannamalai and set aside the same and discharge the petitioner from the above criminal proceedings.

For Petitioner : Mr. V.R. Appaswamee

For Respondent : Mr. R. Vinothraja, GA (crl.side)



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ORDER

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This Criminal Revision case has been filed challenging the order of dismissal dated 06.04.2023 passed by the Sessions Judge, Mahalir Neethimandram, Tiruvannamalai in Cr.M.P.No.262 of 2023 in S.C.No.101 of 2022 and discharge the petitioner from the above criminal proceedings.

2. The learned counsel for the petitioner submitted that the petitioner is prosecuted along with other two accused by the respondent police, in pursuance of a complaint given by the defacto complainant. A case in Cr.No.10 of 2016 has been registered for the offences under sections 109, 120B, 328, 354A of IPC and section 4 of Tamil Nadu Prohibition of Harassment of Woman Act, 2002. On filing of final report, the case has been taken on file in PRC.No.6 of 2017 on the file of Judicial Magistrate, Cheyyar and thereafter the same was committed to Principal District and Sessions Judge, Tiruvannamalai and thereafter, the case was made over to Sessions Judge, Mahalir Neethimandram, (Fast Track Mahila Court), Tiruvannamalai as S.C.No.101 of 2022.



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3. The learned counsel for the petitioner further contended that the petitioner and the defacto complainant/victim are residing in the opposite houses and both of them are working in the same Government school as teachers. The defacto complainant, on account of previous enmity, gave a false complaint with a delay of 2 days alleging that the petitioner/accused along with other two persons conspired together and committed sexual assault against her. In her complaint, she further alleged that the petitioner used a chemical coated kerchief and made her unconscious and thereafter committed the offence. However, in the chemical analysis report, it was found that no chemical is used in the kerchief to make a person unconscious. The complaint was belatedly given and no explanation was given for belated complaint. In the circumstances, the allegation against the petitioner herein is a false one and no material evidence is available to make out the offence under section 376 IPC. Hence, seeking to discharge him from the case, the petitioner filed Crl.M.P.No.262 of 2023 in S.C.No.101 of 2022, wherein, the trial court, without considering the material evidence properly, dismissed the



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discharge petition on the ground that there is sufficient ground for proceeding against the petitioner.

4.The learned Govt. Advocate (crl.side) submitted that the petitioner initially filed Crl.O.P.No.7858 of 2017 before this Court to quash the final report in PRC.No.6 of 2017. The said petition was dismissed by this court by observing that non tracing out of the chemicals in the kerchief and the report of the chemical analysis alone cannot be taken into consideration for quashing the final report and the truth has to be unearthed by letting evidence. Therefore, prima facie, there is a case to proceed against the petitioner. The trial court rightly dismissed the impugned petition as there is no merit in the same. Thus, he pleaded to dismiss the petition.

5. Heard both sides and perused the materials available on record.

6. On perusal of records, the respondent police registered a case in Crime No.10 of 2016, in pursuance of a complaint given by the defacto complainant. After investigation, the respondent police filed a final report and the case has been taken on the file of Judicial Magistrate, Cheyyar in



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PRC.No.6 of 2017 and thereafter, the case was committed to Principal District and Sessions Judge, Tiruvannamalai. Now the case is pending trial. Further, the fact reveals that the petitioner has filed an application in Crl.O.P.No.7858 of 2017 to quash PRC.No.6 of 2017 on the same ground as no material is available to sustain the criminal proceedings against the petitioner and it was dismissed on the ground that absence of no chemical in the hand kerchief and chemical analysis report alone cannot be taken into consideration for quashing the criminal proceedings. Thereafter, the petitioner has approached the Supreme Court by filing petition for special leave to appeal (crl.) No.7760 of 2022. In that Special Leave Petition, the Supreme Court gave liberty to the petitioner to raise all the pleas and contentions at the time of arguments and framing of charge. Therefore, while framing charges, the petitioner objected for the same on the ground of absence of materials. The trial court, after considering the arguments, dismissed the plea of the petitioner by passing the impugned order. The allegation levelled against the petitioner is that the petitioner is residing opposite to the victim's house and both are working as teachers in same Govt. School. The petitioner developed a sexual desire



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towards the victim/complainant and with the help of other 2 accused persons on the incident date, by using hand kerchief coated with chemicals, made the victim unconscious and committed the sexual offence. During the investigation, the respondent/police forwarded the chemical coated hand kerchief which was used to make the victim unconscious, to chemical analysis, but the chemical analysis report is negative and no chemical substance was found in the kerchief to make a person unconscious. Based upon the same, the learned counsel prayed for discharging the petitioner from the case. Apart from this negative report of the chemical analysis, the statements of the victim as well as other witnesses, prima facie accuse the petitioner for commission of the offence. In such circumstances, the disputed fact has to be adjudicated by letting evidence. At the stage of framing of charge, a court has to consider prima facie material to proceed against the accused and cannot go into the workingness of the evidence and worthiness of the witnesses. The credibility of the witnesses and evidence cannot be analysed at this stage. Therefore, the trial court rightly found prima facie case against the petitioner and dismissed the discharge petition filed by the



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petitioner. In view of the above, I find no infirmity in the order passed by the trial court. This criminal revision is devoid of merits, hence it is dismissed.

7.The learned counsel for the petitioner submitted that the petitioner being a school teacher is seeking to dispense with his personal appearance before the trial court. Considering the representation of the petitioner, the personal appearance of the petitioner before the trial court is hereby dispensed with on condition that he should appear before the trial court for further proceedings whenever required by the trial court. Accordingly,

Crl.M.P.No.5534 of 2023 seeking dispense with the personal appearance of the petitioner before the trial court is ordered.

8. In the result, the Criminal Revision Case is dismissed. Consequently the connected Crl.M.P.No.5533 of 2023 is closed.

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msr
Index: yes/no
Internet:yes/no



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- To
- 1.The Sessions Judge, Mahalir Neethimandram,
Thiruvannamalai District.
 - 2.The Inspector of Police,
All Women Police Station,
Cheyyar, Thiruvannamalai
District.
 3. The Public Prosecutor,
Madras High Court.

V. SIVAGNANAM, J.



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