



Crl.R.C.No.1161 of 2023

WEB COPY IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 10.07.2023

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

Crl.R.C.No.1161 of 2023
and Crl.MP.No.9113 of 2023

Ravi

... Petitioner

Vs.

State by Inspector of Police,
All Women Police Station,
Thiruvallur,
Thiruvallur District.
(Cr.No.25 of 2022)

... Respondent

Prayer : Criminal Revision filed under Section 397 & 401 of Criminal Procedure Code to call for the records of the order passed by the learned Judicial Magistrate, Additional Mahila Court, Thiruvallur dated 18.05.2023 in Crl.MP.No.1679 of 2023 and set aside the same.

For Petitioner : Mr.S.Sasikumar

For Respondent : Mr.J.Subbiah, GA (Crl.side)

ORDER

The present criminal revision petition is directed against the order passed by the Judicial Magistrate, Additional Mahila Court, Thiruvallur in Crl.MP.No.1679 of 2023 dated 18.05.2023.

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2. The case of the prosecution is that on 13.06.2022 the complainant's father misbehaved with her own daughter/defacto complainant by inappropriately touching her and this act of the accused continued even subsequently on several occasions. Thereafter, a complaint was lodged by her against her own father for the offences punishable under Section 294(b), 323, 354(A)(1)(i) of IPC with the Inspector of Police, All Women Police Station, Tiruvallur and FIR was registered in Cr.No.25 of 2022. After completing the investigation, a final report was filed against the accused for the offences under Sections 294(b), 323, 354(A)(1)(i) of IPC. Summons was issued to the accused and after his appearance copies of the documents were furnished to him under Section 207 Cr.PC by the Judicial Magistrate, Additional Mahila Court, Thiruvallur.

3. After questioning the accused, charges under Section 294(b), 323, 354(A)(1)(i) of IPC were framed, for which the accused stated that he is not guilty of the offences. Subsequently, he filed a petition under



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Section 239 Cr.PC to discharge him from the offences. The respondent police filed a counter stating that the petition itself is not maintainable, since, the charges were already framed. The learned Judicial Magistrate after considering the rival submissions dismissed the discharge petition filed by the petitioner/accused by an order dated 18.05.2023. Aggrieved over the same, the present criminal revision petition is filed.

4. Mr.S.Sasikumar, the learned counsel for the revision petitioner contended that the relationship between the father and mother of the defacto complainant was strained and IDOP.No.129 of 2022 filed by the revision petitioner is pending before the learned Principal Sessions Judge, Thiruvallur. It was also contended that the present complaint has been given by the daughter only to counter the said IDOP. The further contention is that since there is an inordinate delay in lodging the complaint, the accused should be discharged from all the offences of which he was charged by the Inspector of police, All Women Police station, Thiruvallur.



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5. At the outset, it may be observed that the present discharge petition under Section 239 Cr.PC is filed after the charges were framed, and therefore, the same is not maintainable. Even otherwise, the revision petitioner had not made out any case to discharge him from the offences. The mere delay in lodging the complaint cannot be a ground to discharge the accused, more so, in a case like the present one under Section 354(A)(1)(i) of IPC. This is because in such type of offences and that too committed by a father on his own daughter, the family members have to take a decision to go for a criminal complaint as the same would affect the future of the child.

6. Apart from that, the mere pendency of IDOP No.129 of 2022 cannot be a reason for discharging the accused and this Court cannot assume that the present complaint is falsely given in order to counter the pending IDOP proceedings. Therefore, I do not see any reason to interfere with the findings recorded by the learned Judicial Magistrate, Additional Mahila Court, Thiruvallur.



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7. Accordingly, the criminal revision is dismissed.

Consequently, connected miscellaneous petition is closed. No costs.

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Index: Yes/No

Internet: Yes/No

Speaking/Non-Speaking order

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To

1.The Public Prosecutor, High Court, Madras.

2.The Judicial Magistrate, Additional Mahila Court, Thiruvallur.

3. The Inspector of Police, All Women Police Station, Thiruvallur.



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R. HEMALATHA, J.
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