



Crl.R.C. No.1305 of 2023

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IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 26.07.2023

CORAM

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

Crl.R.C.No.1305 of 2023

Mohammed Faisal

...Petitioner

Vs.

State represented by
Inspector of Police
N3 Muthialpet Police Station
Chennai

... Respondent

Prayer : Criminal Revision Petition filed under Section 397 r/w 401 Cr.P.C. against the order dated 13.06.2023 passed by the learned XVI Metropolitan Magistrate, George Town, Chennai in Crl.M.P. No.4385 of 2023 in Crime No.45/2023.

For Petitioner : Mr.D. Rajagopal

For Respondent : Mr. R.Vinothraja, GA (Crl. Side)

ORDER

Challenging the orders dated 13.06.2023 passed by the learned XVI Metropolitan Magistrate (FAC), George Town, Chennai, in



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Crl.M.P.No.4385 of 2023, the present petition is filed. The said petition was filed by the petitioner/2nd accused for return of the i-phone 14 Pro Max-purple colour with one sim IMVI No.354316414358582 which was seized in connection with Crime No.45/2023, of N3 Muthialpet Police Station, Chennai.

2. The case of the prosecution is that the defacto complainant's 1st daughter, who is studying in a college transferred a sum of Rs.30,000/- to the present petitioner/accused using her mother's account and a message was sent by the concerned bank to the mobile phone. Since the accused did not return the amount to the defacto complainant's daughter, she committed suicide on 02.04.2023 by hanging herself. The defacto complainant immediately lodged a complaint with the police. The Inspector of Police, N3 Muthialpet Police Station, initially, registered an FIR in Cr.No.45/2023 under Section 174 Cr.P.C. and thereafter altered the same to Section 420 r/w 306 IPC and Section 66D Information Technology Act, against the accused. After enquiry, the respondent police arrested the accused and the mobile phone belonging to the



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present revision petitioner (A2) was seized.

3. The present petitioner/2nd accused filed a petition under Section 451 Cr.P.C. in Crl.M.P.No.4385 of 2023 before the XVI Metropolitan Magistrate (FAC) Court, George Town, Chennai, for the return of the mobile phone. The learned XVI Metropolitan Magistrate (FAC), George Town, Chennai, dismissed the said petition vide his orders dated 13.06.2023. Aggrieved over the same, the present Criminal Revision Case is filed.

4. Heard Mr.D. Rajagopal, learned counsel for the petitioner and Mr. R.Vinothraja, GA (Crl. Side) for the respondent.

5. Mr.D. Rajagopal, learned counsel for the petitioner drew the attention of this court to the complaint given by the defacto complainant in which she has stated that she and her two daughters along with one Joseph were sleeping in her house on 01.04.2023 and on 02.04.2023 early in the morning her 1st daughter was found hanging herself using



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her dupatta. His contention is that when the defacto complainant had herself admitted that she was staying with her paramour in the house, the accused cannot be the reason for her daughter's suicide and that he did not receive any amount from the deceased.

6. Per contra, Mr. R.Vinothraja, Government Advocate (Crl. Side) appearing for the respondent would contend that this case is registered under Section 420 r/w 306 IPC and Section 66D of Information Technology Act and that it is clear from the mobile phones of the defacto complainant, the daughter (deceased) and the 2nd accused that the offences under Sections 420 r/w 306 IPC and Section 66D of Information Technology Act have been committed by the present revision petitioner as he did not return Rs.30,000/- given by the deceased to him. His further contention is that the investigation has not been completed and that the mobile phone has to be sent for forensic laboratory for getting an expert opinion.



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7. The presence of paramour of the defacto complainant may not be a ground at this stage to hold that the present petitioner is innocent. This is more so because even in the complaint, the defacto complainant had not suppressed the presence of one Joseph in her house. Since the investigation is yet to be completed and the police is awaiting the forensic lab report, the mobile phone cannot be returned at this stage. Accordingly the Criminal Revision is dismissed.

8. In the result,

- i. the Criminal Revision Case is dismissed.
- ii. the orders dated 13.06.2023 passed by the learned XVI Metropolitan Magistrate (FAC), George Town, Chennai, in Crl.M.P.No.4385 of 2023, is confirmed.

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

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R. HEMALATHA, J.
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To

XVI Metropolitan Magistrate (FAC), George Town, Chennai,

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