



CrI.R.C.No.2084 of 2023

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 07.12.2023

CORAM:

THE HON'BLE MR.JUSTICE M.NIRMAL KUMAR

CrI.R.C.No.2084 of 2023

Sujatha

... Petitioner

Vs.

The State by
The Inspector of Police,
Arakkonam Town Police Station,
Arakkonam,
Ranipet District,
Pin code – 631 001

... Respondent

PRAYER: Criminal Revision Case filed under Sections 397 r/w. 401 of Cr.P.C, prayed to set aside the judgment and decree dated 08.09.2023 made in C.M.P.No.634 of 2020 in C.C.No.31 of 2017 on the file of the learned Judicial Magistrate Court at Arakkonam, Ranipet District.

For Petitioner : Mr.Parigopal

For Respondent : Mr.A.Damodaran
Additional Public Prosecutor



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ORDER

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This Criminal Revision Case has been filed to set aside the order passed by the learned Judicial Magistrate Court at Arakkonam, Ranipet District in C.M.P.No.634 of 2020 in C.C.No.31 of 2017 dated 08.09.2023.

2. The petitioner is the defacto complainant in Crime No.819 of 2016 on whose complaint the case for the offences under sections 294(b), 323, 324, 355 IPC r/w section 4 of TN Prohibition of Harassment of Woman Act, 2002 has been registered against one Rajendran and Anandasayanam, son of Rajendran. On completion of investigation, charge sheet has been filed in C.C.No.31 of 2017.

3. The case of the petitioner is that the petitioner was given marriage to one Anandasayanam on 15.04.2013 and it was an arranged marriage. Due to the difference of opinion, they got separated. The petitioner



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was neglected and thereafter, the petitioner filed a maintenance petition in M.C.No.3 of 2014 before the learned Judicial Magistrate, Arakonam against the said Anandasayanam. During the pendency of the maintenance case, when the petitioner along with her father Kupuraj attended the court proceedings on 07.11.2016, at that time, they were abused and assaulted by the accused and thereafter, were admitted in the Government Hospital, Arakonam. They lodged complaint, a case was registered and now charge sheet has been filed. In the meanwhile, the petitioner's father and the said Rajendran/A1, father of A2 both passed away. The petitioner further submits that before the trial court, the case in C.C.No.31 of 2017 not progressing, due to A2/Anandasayanam absenting himself, NBW issued and the police not taken effective steps to secure him and thereafter, finding that the progress of the case not proper, the petitioner has filed a petition under section 301(2) Cr.P.C. to assist the public prosecutor and to file written arguments at the end of trial. The lower court had dismissed the petition on a wrong notion that the petitioner is seeking permission to conduct prosecution, but it is not so. The



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petition has been filed under section 301(2) and not under section 302

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Cr.P.C. In view of the same, the order of the lower court is to be set aside and the petitioner may be permitted to assist the public prosecutor.

4. Learned Additional Public Prosecutor on the other hand submits that the petitioner is the defacto complainant who had filed a petition under section 301(2) Cr.P.C. Though the petition has been filed under section 301(2), the affidavit and prayer sought for is to conduct the prosecution. Further, after filing the petition, the petitioner has not cooperated with the prosecution and she neither appeared nor advanced her arguments in the above petition, but the petitioner filed Crl.O.P.No.5924 of 2023 blaming the lower court as well as the prosecution for delay in conclusion of the trial. This Court by order dated 15.03.2023, directed the trial court to complete the trial within a period of three months. Hence, the trial to be completed, without any further adjournments. The public Prosecutor has got no objection for the petitioner to instruct and assist the public prosecutor under section



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301(2) of Cr.P.C.

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5. Considering the submissions made on either side and on perusal of the materials, it is seen that the petitioner has filed a petition under section 301(2) of Cr.P.C and his prayer is that he may be permitted to instruct and assist the Public Prosecutor in charge of the case and also to file his written argument after the evidence is closed in this case. He confirms that he had not filed the petition under section 302 Cr.P.C. and hence, he never intended to conduct the prosecution.

6. In view of the specific plea and the Additional Public Prosecutor having no objection, this Court sets aside the order of the lower court and directs the lower court to permit the petitioner to instruct and assist the Public Prosecutor and to file his written argument. Accordingly, this Criminal Revision Case is allowed. It is made clear that the petitioner shall not be any reason for delay in progress of the case.



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Index : Yes/No

Speaking order/Non-speaking order

To

1.The Inspector of Police,
Arakkonam Town Police Station,
Arakkonam,
Ranipet District,
Pin code – 631 001

2.The Judicial Magistrate Court at Arakkonam, Ranipet District.

3.The Public Prosecutor,
High Court, Madras.



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M.NIRMAL KUMAR,J.

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