



Crl.R.C.(MD).No.238 of 2021

BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

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Reserved on : 02.12.2022

Delivered On: 03.01.2023

CORAM

THE HONOURABLE MR. JUSTICE G.ILANGO VAN

Crl.R.C.(MD).No.238 of 2021
and Crl.M.P.(MD).No.2473 of 2021

Chandraleka

... Petitioner

Vs.

1.The State rep. by
The Inspector of Police,
All Women Police Station,
Thilagar Thidal,
Madurai City.
(in Crime No.8 of 2019)

... 1st Respondent/Complainant

2.Muthukrishnan
3.Maladevi
4.Sinduja
5.Lalithakumar
6.Manimaran

... Respondents 2 to 6/Proposed Accused 2 to 6

PRAYER: This Criminal Revision Case is filed under Sections 397 and 401 of the Criminal Procedure Code, to call for the records pertaining to the impugned order of taking cognizance of the Charge sheet filed in C.C.No. 789 of 2020 dated 21.10.2020 on the file of the Judicial Magistrate cum Additional Mahila Court, Madurai and set aside the same.



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For Petitioner : Mr.C.Mayilvahana Rajendran

For Respondents : Mr.S.S.Madhavan for R1
Government Advocate (Crl. Side)

No Appearance for R2 to R6

ORDER

This Revision petition has been filed challenging the impugned order of taking cognizance of the Charge sheet filed in C.C.No.789 of 2020 dated 21.10.2020 on the file of the Judicial Magistrate cum Additional Mahila Court, Madurai.

2.The facts in brief:

The revision petitioner as a defacto complainant filed a complaint before the respondent setting out the facts and circumstances alleging that all the respondents have committed offences punishable under Sections 120 B, 294(b), 406, 420, 498(A), 506(i) of IPC, Section 4 of TN Prohibition of Harassment of Women Act, 2002 and Section 4 of Dowry Prohibition Act, 1961. On the basis of the complaint given by the defacto complainant a case was registered and after completing the formalities of investigation, final report was filed before the trial Court implicating the first accused. So far accused No.2 to 6 are concerned, the Investigating Officer found that the



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allegation against them are baseless and also not true. The real issue is only between husband and wife. On that ground he filed a deletion report on 05.12.2019. The trial Court has also taken cognizance against the first accused on 21.10.2020 without issuing the notice to the defacto complainant, with regard to the deletion of the accused No.2 to 6. Challenging the above said cognizance, this revision has been preferred.

3.Only short point is involved in this revision petition. The learned counsel for the petitioner has straight away relied upon the Judgment of this Court in the case of ***R.Dharmalingam Vs. State*** reported in ***2020 (2) MWN (Cr.) 24.***

4.The averment, which has been held in that case is that if the police files final report deleting some of the persons, against whom, allegations have been made, then notice must be ordered to the defacto complainant and if the above said procedure is not followed, then the very cognizance itself is bad under law. This is also settled preposition of law.

5.On the side of the accused No.2 to 6, it was stated that after their marriage, the defacto complainant and the first accused were residing



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separately and these proposed accused persons were living some where away from the matrimonial home and they never interfered into the life of the husband and wife. Even the Social Welfare Department enquiry, which was concluded that no harassment was made demanding dowry etc., So according to them, absolutely, there is no possibility for having participation in the above said alleged assault. But those things cannot be taken into account at this stage. It is for the trial Court to take those things into account while considering the protest petition.

6.To know whether notice of deletion was given to the defacto complainant, the entire CD file has been called for and perused. Perusal of CD file shows that no notice was issued by the Investigating Officer, at the time of filing of the final report. Even the trial Court has not issued any notice to the revision petitioner. On the sole ground, the revision petition is liable to be allowed.

7.Accordingly, the trial Court is directed to restore the final report, in respect of the accused 2 to 6, to its file and issue notice to the defacto complainant, giving him chance to file protest petition and proceed in accordance with law. The above said process must be completed within



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two months from the date of receipt of a copy of this order.

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8.With the above directions, this criminal revision case is **allowed**.

Consequently, connected miscellaneous petition is closed.

03.01.2023

NCC : Yes/No
Index : Yes / No
Internet : Yes / No

TM

To

1.The Judicial Magistrate cum Additional Mahila Judge, Madurai.

2.The Inspector of Police,
All Women Police Station,
Thilagar Thidal,
Madurai City.

3.The Additional Public Prosecutor,
Madurai Bench of Madras High Court, Madurai.



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G.ILANGO VAN,J.

TM

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