



Crl.R.C.(MD).No.117 of 2023

BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

DATED: 21.02.2023

CORAM

THE HONOURABLE MR. JUSTICE G.ILANGO VAN

Crl.R.C.(MD).No.117 of 2023

Crl.M.P.(MD).No.1716 of 2023

Maria Ravi Sahayaraj

... Petitioner

Vs.

Glory Parimala Mary

... Respondent

PRAYER: This Criminal Revision Case is filed under Sections 397 r/w 401 of the Criminal Procedure Code, to call for the records and set aside the order passed by the Court of Judicial Magistrate No.II, Srivilliputtur in Crl.M.P.No.334 of 2022 in C.C.No.122 of 2015 on 25.08.2022 and allow this Criminal Revision Petition.

For Petitioner : Mr.M.Jothi Basu

For Respondent : Mr.P.Manokaran

ORDER

This revision case has been preferred against the order passed by the Court of Judicial Magistrate No.II, Srivilliputtur in Crl.M.P.No.334 of 2022 in C.C.No.122 of 2015 on 25.08.2022.



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2. The facts in brief:

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Originally, one Savariammal, who is the wife of Maria Ravi Sahayaraj, who is the revision petitioner herein, filed a petition under the provisions of Protection of Women from Domestic Violence Act, 2005, seeking various reliefs and the reliefs were granted on 22.10.2012, by the learned Judicial Magistrate No.II, Srivilliputtur. Later she lodged a complaint on 09.01.2015 before All Women Police Station, Srivilliputtur stating that the revision petitioner and other family members violated the order passed by the learned Judicial magistrate No.II, Srivilliputtur, in Crl.M.P.No.8535 of 2011 as mentioned above. Apart from that she also filed a complaint under Section 31 of the Protection of Women from Domestic Violence Act, 2005 and under Section 200 Cr.P.C. for violation of the order and for punishing them. Later that was taken cognizance and numbered as C.C.No.122 of 2015. Against the proceedings Crl.O.P.(MD).No.12942 of 2015 was filed by the parents and others and that was also allowed by this Court on 13.11.2019, quashing the proceedings against the parents and others.

3. But Savariammal died on 30.07.2021 due to Covid-19. After her death, the legal heir of the Savariammal, the respondent herein file a petition



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before the concerned Court to continue the prosecution under Section 302 Cr.P.C. That was allowed. Against which this revision has been preferred.

4.Heard both sides.

5.Only short point arises for consideration. The learned counsel for the revision petitioner would submit that the further proceedings have been initiated on the basis of the earlier order passed by the Court. But the above said Savariammal reported as dead. According to the revision petitioner, since the proceedings has been initiated under the provisions of the Protection of Women from Domestic Violence Act, the cause of action also died on the death of the wife.

6.Per contra, the respondent would submit that even though the original proceedings were initiated in pursuance of the order passed by the Court exercising the jurisdiction under the provisions of the Protection of women from Domestic Violence Act, other offence such as 448, 427, 147, 506(ii) IPC are included, then the legal heir of the Savariammal, who is the respondent herein, is well within her right and power to continue the criminal prosecution. For that purpose the respondent would rely upon the



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number of judgments, which we need not go in detail, since a settled preposition of law that the criminal cause of action will not die on the death of the complainant. It can be continued by the legal heirs of the complainant.

7.Per contra, the learned counsel for the revision petitioner would rely upon the Full Bench decision of this Court in the case of S.Annapoorni Vs. K.Vijay, reported in 2022 (3) MWN Cr. 539, wherein, the Honourable Full Bench has stated that the provisions of the Protection of Women from Domestic Violence Act are perse civil in nature. So the criminal action that has been initiated by the above said Savariammal is not at all maintainable. But as I mentioned earlier, for other IPC offence also the above said complaint has been given. When that being so, it can be continued by the respondent. There is no legal bar for the continuation of the prosecution. So I am not convinced that the order passed by the trial Court does not suffer from any illegality or irregularity. On the sole ground this revision petition is liable to be dismissed. Accordingly, dismissed. Consequently, connected miscellaneous petition is closed.

21.02.2023

Index : Yes / No

Internet : Yes / No



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To

- 1.The Judicial Magistrate No.II, Srivilliputtur.
- 2.The Additional Public Prosecutor,
Madurai Bench of Madras High Court, Madurai.



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G.ILANGOVA N,J.

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