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Crl.O.P.No.12267 of 2023

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 26.04.2024

CORAM

THE HONOURABLE DR.JUSTICE G.JAYACHANDRAN

Crl.O.P.No.12267 of 2023
& Crl.M.P.No.7475 of 2023

N.Palani.

... Petitioner/Defacto Complainant

/versus/

1. State Rep. by,
The Inspector of Police,
W-25 All Women Police Station,
T.Nagar, Chennai – 600 017.
(Crime No.2 of 2011)

... Respondent/Complainant

2. C.Sathyanarayanan.
3. J.Chandrasekar.
4. C.Rajesh.
5. C.Bhuvaneswari.

... Respondents/Accused 1 to 4

Prayer: Criminal Original Petition is filed under Section 482 of Criminal Procedure Code, to call for the records in Crl.M.P.No.2463 of 2023 in C.C.No.5800 of 2011 on the file of the XVII Metropolitan Magistrate, Saidapet, Chennai, set aside the order dated 03.03.2023 passed therein by the Learned Magistrate.



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For Petitioner : Mr.C.S.Dhanasekaran
For R1 : Mr.S.Udaya Kumar
Government Advocate (CrI.Side)
For R3 to R5 : Ms.G.S.Thilagavathi
For R2 : Died

ORDER

The petitioner herein is the defacto complainant. The allegation found in the complaint, which culminated in filing of the final report in C.C.No.5800 of 2011 is that the daughter of the petitioner got married to one C.Sathyanarayanan on 18.02.2008. The married couple settled in Australia but later had a dispute leading to filing of a divorce petition at the instance of the wife, alleging that there was huge dowry demanded before marriage and after marriage by the husband and his family members. The prosecution has proceeded against the respondents herein, who are the son-in-law of the petitioner, his father, brother and son.

2. The Additional Public Prosecutor has taken out an application to receive additional documents in support of the prosecution. The trial Court, after considering the nature of the document, dismissed the application except for one document, which appears to be the compromise memo entered between the



parties, pending investigation of the complaint. As far as the rest of the 27 documents, the trial Court had observed that most of those documents are subsequent to the complaint and not relevant to the case. Further, they were not collected by the Investigating Officer during the course of investigation. Since they have no relevance to the case at this stage of trial, the same need not be admitted as evidence.

3. Being aggrieved, the defacto complainant is before this Court challenging the order of the trial Court.

4. The Learned Counsel appearing for the petitioner would submit that the reasoning given by the trial Court dismissing the petition partly is contrary to law and relying upon the judgment rendered by the Hon'ble Supreme Court in *Central Bureau of Investigation -vs- R.S.Pai and another* reported in **2002 (5) SCC 82**, the Learned Counsel for the petitioner submitted that under Section 173 of Cr.P.C., there is no impediment for the Investigating Officer to conduct further investigation or to produce additional documents that were collected after filing the final report. It is not necessary that only the documents gathered during the investigation alone must be relied. The



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investigation may have a chance of collecting further documents even after filing

the final report, either as a result of further investigation or even otherwise. The

Court cannot prohibit the Investigating Agency from producing those documents as additional evidence.

5. The Learned Counsel appearing for the respondents submitted that the criminal complaint itself has to be dismissed since the case has been lodged not by the person aggrieved, namely, Vanitha, but by her father as a proxy. That apart, the husband who arrayed as A1 is no more. He died in Australia on 08.08.2023. It is primarily a matrimonial dispute between husband and wife which cropped up while they were in Australia and divorce proceedings were initiated in Australia and granted on 06.10.2010. The remaining accused who are the in-laws, have nothing to do with the alleged dowry harassment or cruelty. However, they are ready and have been participating in the trial for the past 14 years. Just to harass them, certain documents are filed which are not relevant for deciding the case.

6. The trial Court has rightly scrutinized the list of documents and allowed one document, which is a compromise memo filed by the parties before



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the High Court, pending investigation and the rest of the documents have been disallowed since they are not relevant for the deciding the case. Hence, sought for dismissal of this Criminal Original Petition.

7. Heard the learned Counsels and perused the impugned order.

8. The trial Court had dismissed the petition primarily on the ground that these documents were not collected by the Investigating Officer during the course of investigation and further, these documents are not relevant for deciding the case and that apart most of the documents are subsequent to the complaint. Further, the trial Court has also observed that the Additional Public Prosecutor had only furnished the list of documents but not the copy of the documents for the Court to peruse. While scrutinizing the list of documents, this Court finds that the documents from Serial No.16 to Serial 28 are subsequent to the complaint. The trial Court had found that except the memorandum of compromise mentioned in Serial No.20, the other documents subsequent to the complaint are not necessary. Though item Nos.1 to 15 are prior to the complaint, the nature of the document as described in the schedule would clearly show that they are all very less in significance document for the purpose



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of the trial and even if it is a necessary document, the prosecution ought to have collected it and filed at the earliest point of time, but not after 14 years of filing the final report.

9. As pointed out by the learned counsel appearing for the respondent in a proxy complaint by a person who is prettily settled in Australia, he cannot take the accused a ride for years together by delaying the trial and introducing the documents at the fag-end of the trial. Hence, this Criminal Original Petition is dismissed as devoid of merits. Consequently, the connected Miscellaneous Petition is closed.

26.04.2024

Index : Yes/No.
Neutral Citation : Yes/No.
bsm

Copy to:-

1. The XVII Metropolitan Magistrate, Saidapet, Chennai.
2. The Inspector of Police, W-25 All Women Police Station, T.Nagar, Chennai – 600 017.
3. The Public Prosecutor, High Court of Madras, Chennai.



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