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Crl.R.C.No.1511 of 2024

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 12.12.2024

CORAM

THE HONOURABLE MR.JUSTICE SUNDER MOHAN

Crl.R.C.No.1511 of 2024
and Crl.M.P.No.12650 of 2024

Sinothi @ Pinki

... Petitioner

Vs.

1.State by
Inspector of Police,
S8-All Women Police Station,
Thirumangalam,
Chennai.
[Crime No.9 of 2022].

2.Sampath Kumar
[R2 impleaded as per order dated 14.12.2024
in Crl,M.P.No.13692 of 2024]

... Respondents

PRAYER: Criminal Revision Case filed under Sections 438 & 442 of BNSS to call for the records pertaining to the order made in Crl.M.P.No.58690 of 2023 in C.C.No.6154 of 2023 on the file of the learned Chief Metropolitan Magistrate, Egmore, Chennai dated 29.07.2024 and set aside the same.

For Petitioner	:	Mr.S.Sasikumar
For R1	:	Mr.S.Udaya Kumar
		Government Advocate (Crl. Side)



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ORDER

The revision challenges the dismissal of the petitioner's application to discharge filed before the learned Trial Judge.

2.The petitioner is an accused for the offence under Sections 498(A), 494, 406, 294(b), 506(i) IPC and Section 4 of Dowry Prohibition Act in C.No.6154 of 2023 on the file of the learned Chief Metropolitan Magistrate, Egmore, Chennai. The allegation against the first accused, who is the husband of the defacto complainant, is that the marriage took place in the year 2017 at Rajasthan in the presence of friends and relatives; that immediately after marriage, the first accused started ill-treating her and demanded dowry; that the petitioner along with other accused had arranged second marriage to A1 with A5 without getting divorce; that the petitioner who was living in London had called the defacto complainant over phone and asked the defacto complainant to immediately go out of the house, so that A1 could marry A5.



3.The petitioner sought for discharge before the Trial Court which was opposed by the respondent.

4.The learned Magistrate dismissed the discharge petition on the ground that there are allegations in the complaint as well as in the Section 161 Cr.P.C. statements of the victim to the effect that the petitioner had called from London and committed cruelty by asking the victim to vacate the house immediately.

5.The learned counsel for the petitioner submitted that the prosecution against the petitioner is an abuse of process of law; that admittedly the petitioner is living abroad; that the only allegation is that over phone she asked the victim to vacate the house; that an earlier complaint given by the defacto complainant, the victim's father was withdrawn and the same was closed at the C.S.R. stage and thereafter, FIR was registered on the directions given by the learned Magistrate under section 156(3) Cr.P.C. and hence, the petitioner may be discharged from the case.



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6.The learned Government Advocate (Crl. Side) per contra filed a counter and submitted that the allegations in the FIR and in the Section 161 Cr.P.C. Statements of the witnesses would clearly go to show that the offence against the petitioner are made out and that the question as to whether the witnesses can be believed has to be decided only at the time of trial and not at this stage.

7.Admittedly, the petitioner is living in London. The earlier complaint given by the victim's father was closed since her father had withdrawn the allegations in the complaint. Thereafter, it appears that FIR was registered on 27.02.2022 on the petition filed by the father under Section 156(3) Cr.P.C. before the learned Magistrate. These facts are admitted by the respondent and had been stated in the final report. The only allegation against the petitioner is that the petitioner made a phone call from London and asked the victim to vacate the house since A1 had to marry A5. There is no other allegation against the petitioner. Besides the fact that the aforesaid allegation even if accepted to be true would not constitute the



offence alleged against the petitioner, this Court is of the view that the impugned prosecution against the petitioner is a clear abuse of process of law intended to implicate the relatives who are residing far away and have nothing to do with the matrimonial differences between the husband and wife. It is also seen that no specific details has been given by the defacto complainant or by the prosecution as to when and in what manner the alleged cruelty is said to have committed by the petitioner.

8.In a recent decision in the case of ***Dara Lakshmi Narayana and others vs. State of Telangana and another*** reported in ***2024 SCC Online 3682***, the Hon'ble Supreme Court had held that there is growing tendency by the wife aggrieved by the act of their husband to implicate the relatives of the husband in criminal cases without any concrete evidence. The relevant portion read as follows:

“25.A mere reference to the names of family members in a criminal case arising out of a matrimonial dispute, without specific allegations indicating their active involvement should be nipped in the bud. It is a well recognised fact, borne out of judicial experience,



that there is often a tendency to implicate all the members of the husband's family when domestic disputes arise out of a matrimonial discord. Such generalised and sweeping accusations unsupported by concrete evidence or particularised allegations cannot form the basis for criminal prosecution. Courts must exercise caution in such cases to prevent misuse of legal provisions and the legal process and avoid unnecessary harassment of innocent family members."

9.The instant case is one such case where the petitioner who is living abroad is sought to be implicated by the sweeping accusation without any details as to the nature of the alleged cruelty and to the date on which the alleged cruelty said to have been committed. Therefore, Court finds that that the prosecution against the petitioner is a clear abuse of process of law and cannot be sustained as against the petitioner. Therefore, the impugned order passed by the learned Chief Metropolitan Magistrate, Egmore, Chennai in Crl.M.P.No.58690 of 2023 in C.C.No.6154 of 2023 dated 29.07.2024 is set aside and the petitioner is discharged from all charges levelled against her.



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WEB COPY 10. Accordingly, the Criminal Revision Case stands allowed.

Consequently, connected miscellaneous petition is closed.

12.12.2024

Index: Yes/No

Speaking Order/Non-Speaking Order

Neutral Citation: Yes/No

cse

To

1. The Inspector of Police,
S8-All Women Police Station,
Thirumangalam,
Chennai.
2. The Chief Metropolitan Magistrate,
Egmore,
Chennai.
3. The Public Prosecutor,
High Court, Madras.



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SUNDER MOHAN, J.

cse

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