



Crl.R.C.(MD)No.104 of 2024

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BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

Reserved on : 03.03.2025

Pronounced on : 28.03.2025

CORAM:

THE HON'BLE MR.JUSTICE K.MURALI SHANKAR

Crl.R.C.(MD)No.104 of 2024

and

Crl.M.P.(MD)No.1290 of 2024

1.Jeyabalan

2.Kaliyappan

3.Muneeswaran

4.Kaliyanandi

5.Thangamani

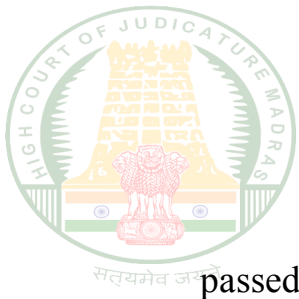
... Petitioners

Vs.

The State represented by
The Inspector of Police,
Town Police Station,
Srivilliputhur,
Virudhunagar District.
(Crime No.445 of 2022)

... Respondent

Prayer : This Criminal Revision Case filed under Sections 397 r/w 401 Cr.P.C., to call for the records relating to the order dated 31.10.2023



Crl.R.C.(MD)No.104 of 2024

passed by learned Judicial Magistrate, Additional Mahila Court, Srivilliputhur in Cr.M.P.No.3804 of 2023 in C.C.No.19 of 2023 and set aside the same.

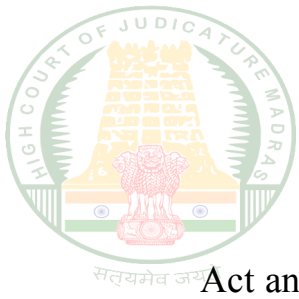
For Petitioners : Mr.C.Susi Kumar

For Respondent : Mrs.M.Aasha
Government Advocate (Crl. Side)

ORDER

The Criminal Revision is directed against the order passed in Crl.M.P.No.3804 of 2023 in C.C.No.19 of 2023 dated 31.10.2023 on the file of the Additional Mahila Court, Srivilliputhur, dismissing the petition for discharge filed under Section 239 of the Code of Criminal Procedure.

2. On the basis of the complaint lodged by one Kavitha, FIR came to be registered in Crime No.445 of 2022 on 16.10.2022 against seven persons including the petitioners for the alleged offences under Sections 147, 294(b), 323 and 506(1) IPC and Section 4 of TN Prohibition of Harassment of Women Act and after completing the investigation, the respondent police has laid the final report against seven persons including the petitioners for the alleged offences under Sections 147, 294(b), 323 and 506(1) IPC and Section 4 of TN Prohibition of Harassment of Women

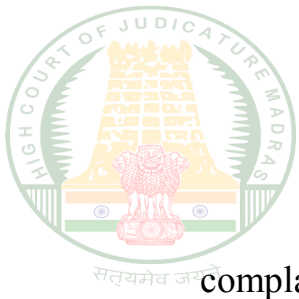


Crl.R.C.(MD)No.104 of 2024

WEB COPY

Act and the case was taken on file in C.C.No.19 of 2023 on the file of the Additional Mahila Court, Srivilliputhur. When the calender case was pending for framing of charges, the accused 1 and 4 to 7 have filed a petition under Section 239 Cr.P.C. seeking discharge from the above case.

3. The case of the prosecution is that the defacto complainant belongs to Christian Pallar community, that the defacto complainant, who was in love with Sundaramoorthi, had married him against the wishes of their respective parents, that after birth of a child, in-laws of the defacto complainant accepting the marriage invited them for pongal festival held at Ayyampatti village on 11.10.2022, that when the defacto complainant along with her husband visited the said village, the accused 1 to 4 threatened the defacto complainant's father-in-law that he should not permit the couple to enter into village or else he has to pay penalty to village, that after completion of the village festival, when the defacto complainant's father-in-law was sitting in front of his house on 14.10.2022 at about 09.00 p.m., the accused visited the house and started abusing the him using filthy language, that when the defacto complainant came out of the house and enquired about the same, they have threatened the defacto

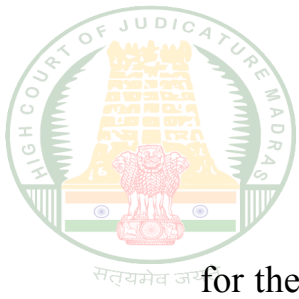


Crl.R.C.(MD)No.104 of 2024

WEB COPY

complainant with dire consequences, that they have convened a panchayat near Kalamman Temple at 10.00 p.m. on that day and directed the defacto complainant's father-in-law to pay Rs.65,000/- as penalty and that when the defacto complainant's husband's brother Jegadeesh had intervened, he was also directed to pay penalty of Rs.5,000/- and the accused have also assaulted him.

4. The petitioners, in their discharge petition, have stated that there was no chance for the accused 1 to 4 to threaten at the same time, that the defacto complainant has not stated as to who had abused her father-in-law, that the witnesses, in their statements recorded under Section 161(3) Cr.P.C., have only alleged that the accused 2 and 3 had assaulted the said Jegadeesh but the prosecution has charged the petitioners for the said assault, that there are contradictions between the complaint and the statements recorded under Section 161(3) Cr.P.C., that the prosecution has not stated as to the place in which the said Jegadeesh was attacked, that the defacto complainant, in her complaint or in her statement, has not whispered anything about the offence under Section 4 of TN Prohibition of Harassment of Women Act, that there are no materials to frame charges



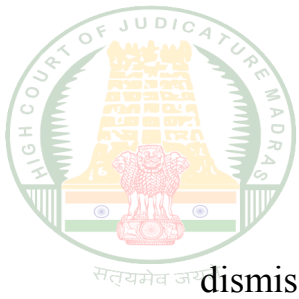
Crl.R.C.(MD)No.104 of 2024

WEB COPY

for the offences alleged and that therefore the petitioners are entitled to be discharged from the above case.

5. The respondent police has filed a counter statement raising objections and further stated that grounds pleaded are mere repetition and consisting of irrelevant pleas, that the position of law is well settled that at the time of framing of charges, the Court need not consider the relevancy or admissibility of the statements and the Court has to form an opinion whether any *prima facie* case has been made out on the basis of materials collected during investigation, that the scope of discharge under Section 239 Cr.P.C. is very limited, that the guilt or innocence of the accused can be determined only at the trial and not at the time of framing of charges, that the incriminating materials submitted by the prosecution are sufficient enough to frame charges, that the above petition has been filed only to procrastinate the proceedings and that therefore the petition is liable to be dismissed.

6. The learned Magistrate, after enquiry, has passed the impugned order dated 31.10.2023 dismissing the discharge petition. Challenging the



Crl.R.C.(MD)No.104 of 2024

dismissal order, the present revision came to be filed.

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7. The learned counsel appearing for the petitioners would submit that even as per the complaint, cause of action for giving complaint started on 14.10.2022 but the complaint was lodged only on 16.10.2022 and no valid reason was assigned for the delay, that the neighbors of the defacto complainant's father-in-law house were not examined to prove the occurrence alleged to have occurred near that house, that the complaint is bereft of material particulars and it does not disclose any specific name, who have threatened using abusive language and who have torned the shirt, that the statements given by the witnesses and the complaint are contradictory, that there are absolutely no materials to frame charge against the petitioners and that therefore the impugned order dismissing the discharge petition is liable to be interfered with.

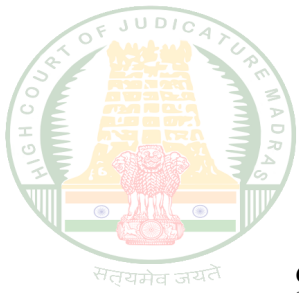
8. In the grounds of revision, the petitioners have averred that the defacto complainant and family members of her husband have made a claim to include the name of the defacto complainant and her husband in the Ayyampatti Hindu Vaniyar uravinmurai sangam, Srivilliputhur, the



Crl.R.C.(MD)No.104 of 2024

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petitioners being the officer bearers of the said society have refused to include their names as per their customary practice, that the defacto complainant and her husband family members due to that vengeance with *mala fide* intention lodged the complaint with false particulars, that a community based sangam cannot be forced to forego customary practices and that the defacto complainant and family members of her husband have participated in the temple festival and they were permitted to worship deity without any objection. The petitioners have also averred that during festival, there arose wordy quarrel between the defacto complainant and family members of her husband during which the elder members of the petitioners' village have intervened and advised them to resolve their disputes amicably. Admittedly, the above aspects were not at all raised in the discharge petition. Moreover, it is settled law that the Court while considering discharge application is duty bound to consider the charge sheet and the statements filed along with the same and other materials collected during investigation and is not expected to see the defence of the accused nor the materials produced by the accused. Considering the above, the above aspects now canvassed in the revision cannot be gone into.



Crl.R.C.(MD)No.104 of 2024

WEB COPY

9. As rightly contended by the learned Government Advocate (Criminal Side), the defacto complainant has given statement under Section 161(3) Cr.P.C, reiterating the complaint contentions and the defacto complainant's husband, her father-in-law and her husband's brother Jegadeesh have also given statements under Section 161(3) Cr.P.C. reiterating the complainant version.

10. The main contention of the petitioners is that there are contradictions between the complaint and the statement recorded under Section 161(3) Cr.P.C., that the prosecution has not specifically stated about the place in which the witness Jegadeesh was attacked, that they have also not stated as to who had attacked the Jegadeesh during the second occurrence at 10.00 p.m. and that the prosecution has also not stated about as to who had abused the defacto complainant's father-in-law. As rightly observed by the learned Magistrate, the above aspects, by no stretch of imagination, can be taken as reasons or grounds for discharge and are matter for trial. The contradictions between the complaint and the statements recorded under Section 161(3) Cr.P.C. or between the statement of the witnesses cannot be gone into at this stage and the same can be



Crl.R.C.(MD)No.104 of 2024

relied on by the accused at the trial.

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11. As rightly contended by the learned Government Advocate (Criminal Side) and as rightly observed by the learned Magistrate, there are sufficient materials to frame charges against the petitioners and as such, the impugned order dismissing the discharge petition cannot be found fault with. Consequently, this Court concludes that the revision is devoid of merit and the same is liable to be dismissed.

12. In the result, this Criminal Revision Case stands dismissed. Consequently, connected Miscellaneous Petition is closed. No costs.

28.03.2025

NCC :yes/No
Index :yes/No
Internet:yes/No
csm

To
1.The Judicial Magistrate,
Additional Mahila Court,
Srivilliputhur.

2.The Inspector of Police,
Town Police Station,
Srivilliputhur,
Virudhunagar District.

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Crl.R.C.(MD)No.104 of 2024

K.MURALI SHANKAR,J.

csn

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

Pre-Delivery Order made in
Crl.R.C.(MD)No.104 of 2024
and
Crl.M.P.(MD)No.1290 of 2024

Dated : 28.03.2025