

P.Manikandan Vs. State

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Court : Chennai

Decided On : Jan-11-2012

Judge : P.R.Shivakumar, J.

Acts : Indian Penal Code (IPC) - Sections 498-A, 307, 406; Dowry Prohibition Act; Code of Criminal Procedure (CrPC) - Section 227

Appeal No. : Crl.R.C.(MD)No.933 of 2011 and M.P.(MD)No.1 of 2011

Appellant : P.Manikandan

Respondent : State

Advocate for Def. : Mrs.S.Prabha, Adv.

Advocate for Pet/Ap. : Mr.S.Deenadhayalam, Adv.

Judgement :

Heard both sides.

2.Accused No.1 in Sessions Case No.299 of 2011 which is pending on the file of the learned Additional Sessions Judge, (Mahila Court), Madurai, is the revision petitioner in the present Criminal Revision Case.

3.A complaint was lodged on the file of All Women Police Station, Thirupparankundram, Madurai, as Crime No.33 of 2009 against the revision petitioner herein, his parents and a relative of the revision petitioner, by the wife of

the revision petitioner alleging commission of cruelty punishable under sections 498-A IPC, demand of Dowry punishable under provisions of the Dowry Prohibition Act, attempt to commit murder punishable under sections 307 and 406 IPC. After investigation, a final report was submitted alleging commission of offence under sections 498-A, 406 and 307 IPC and also an offence under section 4 of the Dowry Prohibition Act, on the part of the revision petitioner herein (A1) and offences under section 498-A IPC and section 4 of the Dowry Prohibition Act by the other accused persons namely A2 to A4. The same was taken on file by the learned committal Magistrate namely, Judicial Magistrate No.VI, Madurai and since one of the offences alleged is exclusively triable by a Court of Session following the procedure for committing the case, the case was committed for trial to Sessions Court, Madurai. The same was taken on file as S.C No.299 of 2011 in the Sessions Division of Madurai and on point of jurisdiction, the same was made over to the Additional Sessions Judge (Mahila Court), Madurai for disposal according to law.

4.When the matter was pending before the said trial Court for consideration regarding framing of charges, the revision petitioner (A1) filed a miscellaneous petition CrI.M.P.No.487 of 2011 under section 227 of Cr.P.C. praying for an order discharging him in respect of the charges made against him in the final report. The learned trial Judge, after affording an opportunity of being heard to the petitioner as well as the Public Prosecutor, passed an order on 29.10.2011 dismissing the said petition holding that there were grounds for presuming that the accused had committed the offences alleged as per the final report. However, perhaps with a view to afford an opportunity to the revision petitioner (Accused No.1) to challenge the order refusing discharge, the learned trial Judge postponed the framing of charges. The same may be only an irregularity which will not vitiate the proceedings.

5.Now the present Criminal Revision Case has been filed by the petitioner challenging the order of the learned Additional Sessions Judge (Mahila Court), Madurai, dated 29.10.2011 made in CrI.M.P.No.487 of 2011 in S.C.No.299 of 2011 by which the petition filed under section 227 Cr.P.C praying for discharge was dismissed. A copy of the petition filed under section 227 Cr.P.C. has been

included in the typed set of papers annexed to the revision petition. A perusal of the same will go to show that challenge was made only in respect of the propriety of framing of a charge for an offence under section 307 IPC as, according to the petitioner, no prima facie case was made out by the materials sought to be relied on by the prosecution. In respect of other offences, it seems nothing was canvassed in the said petition. In the present Criminal Revision Case also, challenge is restricted to the allegation of the commission of offence under section 307 IPC and no whisper has been made in respect of the other offences alleged in the final report.

6.The only ground on which the petitioner contended before the trial Court was that no prima facie case for an offence under section 307 IPC was made out. The said contention was sought to be sustained by pointing out the fact that Crime No.33 of 2009 came to be registered based on a subsequent compliant, which, according to the petitioner, was prepared after deliberation as an afterthought after the conciliation attempted through the Social Welfare Officer ended in failure. The petitioner also contends that before the Social Welfare Officer and also the Doctor, who allegedly gave treatment to the de-facto complainant/wife of the petitioner, she gave statements to the effect that she herself consumed toilet cleaner in an attempt to commit suicide due to domestic quarrel with her husband and that the said statements were sought to be given a go by and a fresh statement was pressed into service by lodging of a fresh complaint, based on which alone documents came to be prepared by the investigating officer to implicate the petitioner for the offence of attempt to murder punishable under section 307 IPC.

7.The learned trial Judge properly considered the scope of the above said contention and rejected the prayer made by the revision petitioner for discharge, holding that the petitioner's prayer was to evaluate evidence at the stage of framing of charge itself, which is not permissible in law. The learned trial Judge also narrated the materials available in the records produced by the prosecution, which are sought to be relied on by the prosecution in support of the prosecution case and after referring to those materials, made a clear observation that the evidentiary value of those materials, the truth or otherwise of such statements could not be gone into at the stage of framing of charges while considering

whether the accused is to be discharged. This court finds no defect or infirmity in the approach made by the learned trial Judge. The reasons assigned by the trial Judge for coming to the conclusion that the relief of discharge sought by the petitioner could not be granted are sound and cannot be assailed. No case has been made out by the revision petitioner for interference with the well considered order of the trial court.

8. For all the reasons stated above, the revision deserves rejection. Accordingly, the Criminal Revision Case is dismissed. Consequently, connected Miscellaneous Petition is closed.

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