

CrI.RC.(MD).No.873 of 2023

BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

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DATED : 14.08.2023

CORAM

THE HONOURABLE MR.JUSTICE K.K.RAMAKRISHNAN

CrI.RC.(MD).No.873 of 2023

and

CrI.M.P.(MD).Nos.11624 & 11626 of 2023

Lakshmi

... Petitioner

Vs.

Meenakshi

... Respondent

PRAYER : Criminal Revision Case filed under Section 397 r/w 401 of the Criminal Procedure Code, to call for the records relating to the order passed by the learned Judicial Magistrate, Additional Mahila Court, Madurrai in Cr.M.P.No.1228 of 2021 in C.C.No.285 of 2021 dated 31.07.2023 and set aside the same.

For Petitioner : Mr.Subash Babhu
Senior Counsel



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ORDER

This Criminal Revision Case has been filed against the order passed in Cr.M.P.No.1228 of 2021 in C.C.No.285 of 2021 dated 31.07.2023 on the file of the learned Judicial Magistrate Additional Mahila Court, Madurai.

2. The petitioner is the accused in C.C.No.285 of 2021, on the file of the Additional Mahila Court, Madurai. The petitioner filed a discharge petition and the same was dismissed by the learned trial Judge. Challenging the same, he filed this Criminal Revision Case.

3. The learned Senior Counsel submitted that the petitioner herein has filed a discharge petition before the trial Court, which was dismissed by the learned trial Judge.

4. This Court asked to peruse the judgment of the Hon'ble supreme Court reported in *Adalat Prasad Vs. Rooplal Jindal and Others* reported in (2004) 7 SCC 338 followed in the *Subramaniam Sethuraman*

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Vs. State of Maharashtra and another reported in 2005 SCC CrI 245 and asked to address the issue of maintainability of discharge petition in the proceedings initiated under Section 200 Cr.P.C.,

5. At that time, the learned senior counsel fairly submitted that the discharge petition is not maintainable but he relying following paragraph No.15 of the judgment, seeks permission of this Court to file quash petition.

"15. It is true that if a Magistrate takes cognizance of an offence, issues process without there being any allegation against the accused or any material implicating the accused or in contravention of provisions of Sections 200 and 202, the order of the Magistrate may be vitiated, but then the relief an aggrieved accused can obtain at that stage is not by invoking Section 203 of the Code because the Criminal Procedure Code does not contemplate a review of an order. Hence in the absence of any review power or inherent power with the subordinate criminal Courts, the remedy lies in invoking Section 482 of the Code."



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6. In view of the submission made by the learned counsel for the petitioner, this Court is inclined to grant permission to file a quash petition and dispose of this Criminal Revision Case in the following terms:

(i) the petitioner is permitted to file a quash petition to quash the proceedings, C.C.No.285 of 2021 on the learned Judicial Magistrate Additional Mahila Court, Maduri; and

(ii) In case, such petition is filed, the Registry is directed to number the same and list it before this Court on 17.08.2023, without raising any query regarding maintainability of the petition.

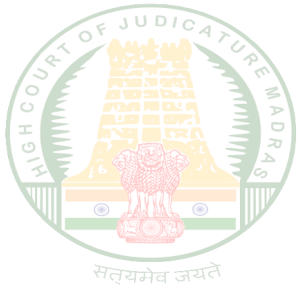
The connected miscellaneous petitions are closed.

14.08.2023

NCC :Yes/No
Index :Yes/No
Internet :Yes/No

sbn

Note: Issue order Copy today (14.08.2023)



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K.K.RAMAKRISHNAN, J.

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