



BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

DATED: 23.10.2017

CORAM

THE HON'BLE MR.JUSTICE S.S.SUNDARCr1.O.P.(MD) No.12509 of 2016

WEB COPY

M. Vanitha

... Petitioner

-Vs-

1. The Superintendent of Police,
O/o. the Superintendent of Police,
Madurai District.

2. The Inspector of Police,
All Women Police Station,
Melur.
(Crime No.55 of 2015)

3. Balamurugan

... Respondents

Prayer: This Criminal Original Petition is filed under section 482 of Cr.P.C to direct the respondents 1 and 2 to send the blood samples of the petitioner, petitioner's child and the respondent no.3 to Hyderabad for conducting DNA test.

For Petitioner : Mr.S.M.A.Jinnah

For Respondents 1 and 2 : Mr.K.S. Duraipandian,
Additional Public Prosecutor

For respondent No. 3 : Mr.S.Jothimani

ORDER

This petition is filed for issuing a direction to the respondents 1 and 2 to send the blood samples of the petitioner and petitioner's child and the 3rd respondent to Hyderabad for conducting DNA test.

2. It appears that the petitioner has given a complaint against the third respondent and the same was registered by the second respondent Police in Crime No.55 of 2015, for the offences under Sections 417 and 376 of IPC. The contention of the petitioner is that the petitioner gave birth to a male baby on 29.12.2015 because of the sexual assault on her by the third respondent. It is seen that after filing a charge sheet in S.P.C.No.39 of 2016, before the learned Additional Mahila Court, Madurai, the petitioner himself has asked for an expert



opinion and the expert opinion was also obtained from the Forensic Sciences Department, Government of Tamil Nadu, Forensic House, Kamarajar Salai, Chennai - 600 004 on 29.01.2016. It is also admitted that the expert opinion is against the case of the petitioner and as per the expert opinion, the third respondent was found excluded from the paternity of the male child of the petitioner. Though the expert opinion was received on 29.01.2016, the petitioner has come forward with this petition for the above said prayer.

3. Heard the learned counsel appearing for the petitioner and the learned Additional Public Prosecutor appearing for the respondents 1 and 2.

4. Since the matter has gone to trial stage and it is stated that several witnesses have been examined, it is open to the petitioner to approach the trial Court for an appropriate relief before the trial court. In case the petitioner is able to demonstrate that there is a possibility of tampering of the samples, the trial Court may pass appropriate orders. The petitioner cannot seek parallel remedy before this Court.

5. With the above observations, the Criminal Original Petition is dismissed as not maintainable.

Sd/-

Assistant Registrar (CS-III)

/True copy/

Sub Assistant Registrar

To

1. The Superintendant of Police,
O/o. the Superintendant of Police,
Madurai District.

2. The Inspector of Police,
All Women Police Station,
Melur.

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

+ 1 CC TO MR.S.Jothimani, ADVOCATE IN SR No. 83262
+ 1 CC TO MR.S.M.A.Jinnah, ADVOCATE IN SR No. 83257

trp

MK/MR KKR/SAR-4/01.11.2017/2P/6C