

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED 04.10.2018

CORAM

THE HONOURABLE Mr.JUSTICE P.N.PRAKASH

CRL.O.P.No.22937 of 2018
and CRL.M.P.No.12814 of 2018

Murugesan

.. Petitioner/Accused

Vs

The State of Tamil Nadu,
Rep. by Inspector of Police,
Vellaimeedu Pettai Police Station,
Villupuram District.

.. Respondent/Complainant

Criminal Original Petition filed under Section 482 Cr.P.C., praying to call for the records relating to the proceedings of the learned Sessions Judge Magalir Neethi Mandram (Fast Track Mahila Court) Villupuram in Crl.M.P.No.802 of 2017 in SC.No.320 of 2016 dated 13-11-2017 and set aside the same.

For Petitioner: Mr.M.Devaraj
For Respondent: Ms.M.Prabhavathi,
Additional Public Prosecutor

O R D E R

The petitioner is facing prosecution under Sections 376 and 417 I.P.C in S.C.No.320 of 2016 before the Sessions Court, Fast Track Magalir Court, Villupuram for the offences under Sections 376 and 417 I.P.C. During the course of trial, the prosecution filed Crl.M.P.No.802 of 2017 in S.C.No.320 of 2016 for a direction to the accused to submit himself to DNA profiling with the child of the de-facto complainant. The said petition has been allowed by the Trial Court vide impugned order dated 13.11.2017, challenging which the petitioner is before this Court.

2.Heard Mr.M.Devaraj, learned counsel appearing for the petitioner/accused and Ms.M.Prabhavathi, learned Additional Public Prosecutor appearing for the respondent.

3.Mr.M.Devaraj contended that the case is of the year 2001 and the original allegation against the petitioner was only

under Section 417 I.P.C. However, the Trial Court had committed the case to the Court of Sessions for the offences under Section 376 I.P.C. He therefore submitted that undue prejudice will be caused to the accused if he submits to DNA profiling.

4.Per contra, the learned Additional Public Prosecutor refuted the contentions.

5.It is a trite law that an accused can be subjected to DNA profiling as that would not amount to 'testimonial compulsion' under Article 20(3) of the Constitution of India [Selvi and others vs. State of Karnataka (2010) 7 SCC 263]. In this case, the accused has completely denied any sort of relationship with the de-facto complainant. However, it is the case of the de-facto complainant that a child was born to her on account of her relationship with the accused. In such circumstances, it has become imperative for the Trial Court to arrive at the truth and therefore, the order passed by the Trial Court directing the petitioner/accused to submit himself to DNA profiling cannot be said to be illegal, warranting interference by this Court.

6.In the result, this petition is dismissed. Consequently, connected Miscellaneous Petition is closed.

Sd/-
Assistant Registrar (CS-IX)

//True Copy//

Sub Assistant Registrar

gsa

To

1.The Inspector of Police,
The State of Tamil Nadu,
Vellaimeedu Pettai Police Station,
Villupuram District.

2.The Sessions Judge,
Magalir Neethi Mandram
Fast Track Mahila Court,
Villupuram.

3. do thro Principle Sessions Judge,
Villupuram.

4.The Public Prosecutor,
High Court, Madras.

+1cc to Mr.M.Devvaraj, Advocate, S.R.No.68466

CRL.O.P.No.22937 of 2018
and CRL.M.P.No.12814 of 2018

RSY (CO)
GN (25/10/2018)



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