

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 25.04.2019

CORAM:

THE HON'BLE MR.JUSTICE G.K.ILANTHIRAIYAN

CRL.OP.No.1994 of 2017

The State Rep. by
The Inspector of Police,
Sembanarkoil Police Station,
Nagapattinam District.
[Crime No.360/2015] Petitioner/ Complainant

Vs.

Rabin Yesupillai ...Respondent/ Accused

PRAYER: Criminal Original Petition filed under Section 482 Cr.P.C., to set aside the order passed by the Court of the Sessions Judge [Fast Track Mahila Court], Nagapattinam in Cr.M.P.No.80/2016 in Spl.S.C.No.15/2015, dated 6.4.2016 and permit to subjecting the accused, victim girl and her child to undergo D.N.A. Test for proving the case, in accordance with law.

For Petitioner : Mr.C.Raghavan
Government Advocate (Crl. Side)

For Respondents: Mr.J.Jawahar

सत्यमेव जयते
O R D E R

The Criminal Original Petition has been filed to set aside the order passed by the Court of the Sessions Judge [Fast Track Mahila Court], Nagapattinam in Cr.M.P.No.80 of 2016 in Spl.S.C.No.15 of 2015, dated 6.4.2016 and permit to subjecting the accused, victim girl and her child to undergo D.N.A. Test for proving the case, in accordance with law.

2.Heard, Mr.C.Raghavan, learned Government Advocate (Criminal Side) for the petitioner and Mr.J.Jawahar, learned counsel appearing for the respondent and perused the materials available on record.

3.The relevant portion of the order dated 6.4.2016 in Cr.M.P.No.80 of 2016 in Spl.S.C.No.15 of 2015, passed by the Court of Sessions Judge (Fast Track Mahila Court), Nagapattinam is extracted hereunder:-

"The learned Special Public Prosecutor has argued that the victim has given birth of child after completing investigation. So, the Investigation Agency could not collect the blood sample of child in the womb during investigation. So, after birth of child, the prosecution has come forward to take steps for subjecting them to D.N.A. analysis, since the victim has given birth of child.

On considering the version of prosecution and on perusal of the records, it is seen that the final report was received by this court on 28.12.2015. But, the child was born 01.12.2015, So, the Investigating Agency could have opportunity to subject the victim and child along with accused for D.N.A. analysis. Even though one month time is available for the Investigating Agency from 01.12.2015 to 28.12.2015, but, the Investigating Agency has failed to utilize this opportunity and now simply filing this petition for seeking D.N.A. analysis in which the case was posted for trial. So, on considering this aspect, it is crystal clear after completing investigating and filing of final report, there is no additional fact arises. So, in such situation, this court considers that there is no need for subjecting the parties for D.N.A analysis for which there was sufficient time to utilize the same. So, on considering above facts and circumstances, this court considers that this petition has no merits.

In the result, this petition is dismissed."

4.In view of the above, this Court finds no infirmity or illegality in the order dated 6.4.2016, passed by the Court of Sessions Judge (Fast Track Mahila Court), Nagapattinam in Cr.M.P.No.80 of 2016 in Spl.S.C.No.15 of 2015. Therefore, this Court is not inclined to set aside the same.

5.With the above observation, the Criminal Original Petition is dismissed.
pam

Sd/-

Assistant Registrar

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Sub Assistant Registrar

To

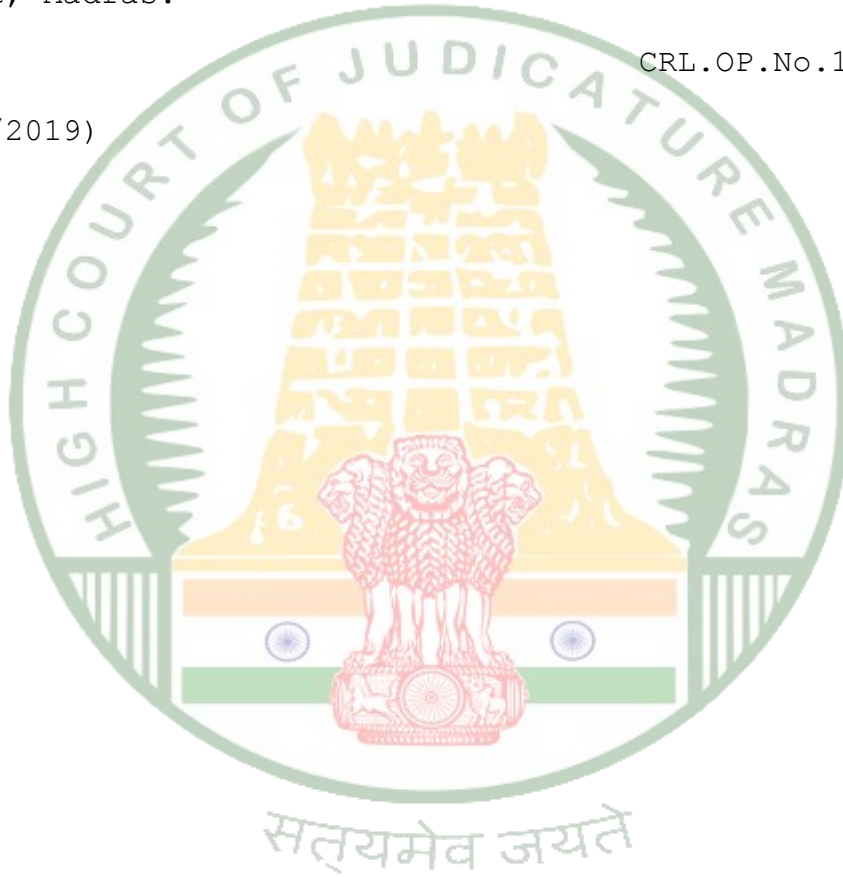
1.The Inspector of Police,
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Copy to:-

The Public Prosecutor,
High Court, Madras.

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