



BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

DATED: 11.03.2019

CORAM

THE HONOURABLE MR. JUSTICE **N.SESHASAYEE**

Crl.O.P. (MD) No.1855 of 2019

and

Crl.M.P.Nos.1004 & 1005 of 2019

1. Alavia @ S.Bather Nisha Bibi
2. Yasin @ I.Syed Mohideen Ibrahim
3. Tasmia @ S.Umaima Bibi

... Petitioners/
Accused 4,5 and 6

Vs.

The State represented by,
The Sub-Inspector of Police,
All Women Police Station (South),
Madurai City.
(Crime No.11/2011)

... Respondent/Complainant

PRAYER: Criminal Original Petition is filed under Section 482 of the Code of Criminal Procedure, to call for the records pertaining to the order passed by the learned Judicial Magistrate, Additional Mahila Court, Madurai on 25.10.2018 with regard to the framing of charges in C.C.No.158 of 2014 and set aside the same.

For Petitioners : Mr.R.Anand

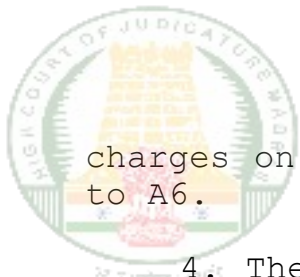
For Respondent : Mr.A.P.G.Ohm Chairma Prabhu
Government Advocate (Crl.Side)

O R D E R

This Criminal Original Petition has been filed to call for the entire records pertaining to the order passed by the learned Judicial Magistrate, Additional Mahila Court, Madurai on 25.10.2018 with regard to the framing of charges in C.C.No.158 of 2014 and set aside the same.

2. Heard the learned counsel for the petitioner and the learned Government Advocate(Crl.side) appearing for the respondent.

3. The only allegation made in this case is that the petitioners, who are arrayed as A4 to A6 in C.C.No.158 of 2014 have filed a petition to discharge them, that on 17.10.2018, the discharge petition came to be dismissed and then proceeded to frame



charges on the next posting on 25.10.2018 even in the absence of A4 to A6.

4. The petitioner has produced such a copy of the notes paper, which reads thus:

'A1, A3 present. A2 died others absent PFA charges framed A1 to A7 u/s498(A) IPC, for questioning C/o 29.10.2018'

5. It is apparent and self evident that the petitioners have not appeared before the Court on 25.10.2018. It does not appear that court has either dispensed with their appearance earlier nor it has condoned their non-appearance under Section 317 CrI.P.C.

6. But the point here is that the court has proceeded to frame charges without summoning all the accused actually appearing before the court. This is too fundamental that no court could afford to ignore or overlook yet the learned Magistrate has fallen in error in framing charges without the accused actually present before him. Necessarily, the petition has to be allowed. Accordingly, the charges now framed by the trial court is set aside and the learned Magistrate is directed to frame charges afresh when all the accused person appears before the court.

9. The learned Government Advocate(CrI.side) submitted that the case stands posted before the trial court on 27.03.2019. This Court now directs all the petitioners to appear before the trial court on 27.03.2019 and the trial court shall frame charges in the manner prescribed by law.

10. With the above direction, this Criminal Original Petition is disposed of. Consequently, connected miscellaneous petitions are closed.

Sd/-

Assistant Registrar()

// True Copy//

Sub Assistant Registrar(CS)

To

1. The Judicial Magistrate,
Additional Mahila Court,
Madurai.

2. The Sub-Inspector of Police,
All Women Police Station (South),
Madurai City.



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

WEB COPY

+1 CC to M/s.N.SUDHAGAR NAGARAJ, Advocate in SR-2331

Crl.O.P. (MD) No.1855 of 2019
in Crl.M.P.Nos.1004 & 1005 of 2019
11.03.2019

cm

PK/12.04.2019 : 3P/5C