



WEB COPY

BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

DATED : 14.06.2019

CORAM:

THE HONOURABLE MR.JUSTICE V.BHARATHIDASAN

CrI.O.P.(MD)No.1784 of 2017

and

CrI.M.P.(MD)No.1441 of 2017

Jedison

: Petitioner

Vs.

1.State through the Inspector of Police,
All Women Police Station,
Valliyoor, Tirunelveli District,
Crime No.17 of 2015

2.C.Sagunthala

: Respondents

PRAYER: Criminal Original Petition is filed under Section 482 of the Code of Criminal Procedure praying to call for the records relating to the charge sheet in PRC.No.3 of 2017 on the file of the learned Judicial Magistrate, Valliyoor, Tirunelveli District and quash the same.

For Petitioner	:Mr.M.Mohamed Sherbudeen
For Respondent No.1	:Mr.K.Suyambuliga Bharathi Government Advocate (CrI.Side)
For Respondent No.2	:No Appearance

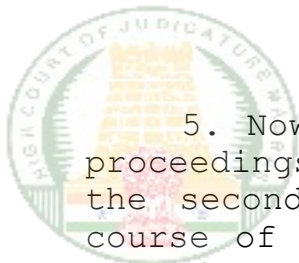
ORDER

This petition has been filed to quash the proceedings in P.R.C.No.3 of 2017 pending on the file of the learned Judicial Magistrate, Valliyoor, Tirunelveli District.

2. Heard the learned counsel for the petitioner and the learned Government Advocate (Criminal Side) appearing for the first respondent.

3. The petitioner is the sole accused in the above criminal proceedings in P.R.C.No.3 of 2017 and he has been charged with for the offences punishable under Sections 417, 376 and 506(i) of the Indian Penal Code r/w Section 4 of the Tamil Nadu Prohibition of Harassment of Women Act, 2002.

4. Earlier, a crime has been registered against the petitioner based on the complaint given by the second respondent alleging that the petitioner/sole accused has promised to marry her and on the promise of marrying, the petitioner had sexual intercourse forcibly with the second respondent and subsequently, she got pregnant. Later, the petitioner refused to marry her as promised. In the above circumstances, a complaint has been filed by the second respondent, based on which, a crime has been registered against the petitioner for the aforesaid offences.



5. Now, the present quash petition has been filed to quash the proceedings mainly on the ground that, after filing the complaint, the second respondent gave birth to two children and during the course of investigation, a DNA test was conducted and the same was proved negative against the petitioner.

6. According to the petitioner, the DNA test conclusively proved that he is not the father of the children and the second respondent has illicit intimacy with some third parties and hence, charge against the petitioner under Section 376 of the Indian Penal Code is not maintainable.

7. Even though the DNA test is found negative against the petitioner, that itself is not a proof that the offences under Sections 376 and 417 of the Indian Penal Code are not made out against the petitioner. From the materials available on record, it could be seen that a *prima facie* case is made out against the petitioner for the offences under Sections 417, 376 and 506(i) of the Indian Penal Code. In the above circumstances, merely because a DNA test is proved negative against the petitioner, it is not a ground to quash the entire proceedings. Thus, I find no merit in the present quash petition and consequently, the same deserves to be dismissed and accordingly, dismissed. Consequently, the connected miscellaneous petition is closed.

Sd/-

Assistant Registrar (C.O)

// True Copy //

Sub Assistant Registrar(CS)

To

- 1.The Judicial Magistrate,
Valliyoora,
Tirunelveli District
- 2.The Inspector of Police,
All Women Police Station,
Valliyoora, Tirunelveli District,
- 3.The Additional Public Prosecutor,
Madurai Bench of Madras High Court,
Madurai.

Order made in
Cr1.O.P. (MD)No.1784 of 2017

Dated:

14.06.2019