



WEB COPY

BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

DATED: 02.07.2019

CORAM

THE HONOURABLE MR.JUSTICE G.R.SWAMINATHAN

Cr1.R.C.(MD)No.610 of 2013

and

M.P.(MD)No.1 of 2013

T.Nagalakshmi ... Petitioner/Defacto Complainant

Vs.

1.S.Ramkumar

2.Sankar

3.Rathinam

... Respondent/A1 to A3

4.State rep. by its

The Inspector of Police,
All Woman Police Station,
Theni.

... Respondent/Complainant

(Crime No.29 of 2009)

Prayer: Criminal Revision Case is filed under Section 397 r/w. 401 of Cr.P.C, to call for the records pertaining to the order in Cr.M.P.No.114 of 2013 in S.C.No.150 of 2012 on the file of the Chief Judicial Magistrate, Theni, dated 12.06.2013 and set aside the same.

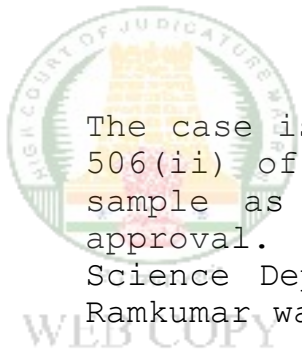
For Petitioner : Mr.T.Lajapathi Roy

For Respondents : Mrs.S.Bharathi,
Govt. Advocate (Cr1. Side) for R4

For R1 to R3 : Mr.D.Suresh Kumar

O R D E R

The petitioner is the defacto complainant in Crime No.29 of 2009 registered on the file of the Inspector of Police, All Woman Police, Theni. The case of the petitioner is that the first respondent namely., Ramkumar promised to marry her and had physical relationship with her leading to the birth of the child namely., Dilip. Investigation was undertaken and final report was filed and cognizance of the offence under Sections 376, 417 and 506(ii) of Cr.P.C. was taken in S.C.No.150 of 2012, on the file of the learned Chief Judicial Magistrate, Theni. Thereafter, the accused was discharged in respect of the offence under Section 376 of I.P.C.



The case is being tried only for the offence under Sections 417 and 506(ii) of I.P.C. Even during investigation, the petitioner's DNA sample as well as the sample of child were taken and sent for approval. A report dated 22.08.2011 was received from the Forensic Science Department, Chennai, negated the petitioner's claim that Ramkumar was the biological father of Dilip.

2.The petitioner therefore filed Cr.M.P.No.114 of 2013 in S.C.No.150 of 2012, asking for second DNA test. This petition was dismissed by order dated 12.06.2013 by the learned Chief Judicial Magistrate, Theni. Challenging the same, this criminal revision case has been filed.

3.When the matter was taken up for hearing, the learned counsel appearing for the petitioner sought adjournment to get further instruction in the matter.

4.The learned counsel appearing for the accused/respondents 1 to 3 submitted that during the pendency of the criminal revision case, the petitioner got married to another person and she got a child through him. His another major contention is that the report received from Forensic Science Department, Chennai, dated 22.08.2011 was rejected by the Trial Court on substantial and proper grounds. It is not open to the petitioner to ask for one more DNA test. I am in full agreement with this submission of the learned counsel for the accused/respondents 1 to 3. It is of course open to the petitioner, if she so advised to impeach the correctness of the earlier report. Only in the event of its rejection an application for second DNA test will lie. This right of the petitioner is left open.

5.With these observations and liberty to the petitioner, this criminal revision case stands dismissed. Consequently, connected miscellaneous petition is closed.

Sd/-
Assistant Registrar

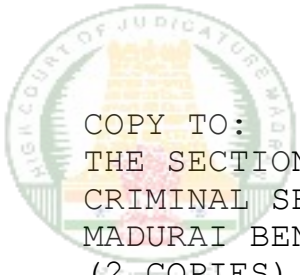
/TRUE COPY/

Sub Assistant Registrar

To:

1.The Chief Judicial Magistrate,
Theni.

2.The Inspector of Police,
All Woman Police Station,
Theni.



COPY TO:
THE SECTION OFFICER,
CRIMINAL SECTION,
MADURAI BENCH OF MADRAS HIGH COURT, MADURAI.
(2 COPIES)

WEB COPY

+1 CC to M/s.T.LAJAPATHI ROY, Advocate (SR-73084[F] dated 03/07/2019)

+1 CC to M/s.A.CHANDRA KUMAR, Advocate (SR-72990[F] dated 03/07/2019)

**Cr1.R.C. (MD) No.610 of
2013**

ias

JM/27.08.2019/3P/7C