

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 29.01.2020

CORAM:

THE HON'BLE MR.JUSTICE P.VELMURUGAN

CRL.O.P.Nos.21774 of 2013 & 23734 of 2011
and M.P.Nos.1 of 2013 & 1 of 2011

V.Nagaraj ... Petitioner
in Crl.O.P.No.21774 of 2013

1.V.Nagarani,
2.V.Jayanthi.

...Petitioners
in Crl.O.P.No.23734 of 2011

-vs-

State of Puducherry rep.by
The Superintendent of Police,
P.C.R.Cell,
Puducherry
(Registered as Cr.No.22/2009
originally Cr.No.351/2009
on the file of Odiansalai P.S)

... Respondent in both Crl.O.Ps.

Common Prayer: Criminal Original petitions filed under Section 482 of Criminal Procedure Code, to calling for the records in S.C.No.4 of 2011 now pending on the file of the learned II Additional Sessions Court (Spl.Court for S.C & S.T Cases) Puducherry and quash the same.

(in both Crl.O.Ps.)

For Petitioner : Mr.R.Ganeshkumar

For Respondent : Mr.D.Bharathachakravathy
Public Prosecutor (Pondy)

COMMON ORDER

The respondent Police registered a case as against the petitioners in Crime No.22 of 2009 for the offences under Section 448, 354, 361, 506(ii) IPC r/w Section 34 IPC and under Section 3(1)(x), (xi) of SC&ST (Prevention of Atrocities) Act 1989. After investigation, the respondent Police laid a charge

sheet before the learned Judicial Magistrate No.II, Puducherry. The learned Magistrate took the charge sheet on file and committed the case to the learned II Additional Sessions Court (Special Court for SC & ST cases), Puducherry and the same was taken on file in Spl.S.C.No.4 of 2011 and sent summons to the petitioners. The petitioner in Crl.O.P.No.21774 of 2013 is A1. The petitioners in Crl.O.P.No.23734 of 2011 are A2 and A3. After receiving the summons, the petitioners have filed the present petitions under Section 482 Cr.P.C., to quash the complaint in Spl.S.C.No.4 of 2011.

2.The learned counsel for the petitioners would submit that there is no specific overt act as against A1 and the petitioners in Crl.O.P.No.23734 of 2011, who were arrayed as A2 and A3 have not at all involved in the above said offence. He further submitted that all the witnesses have spoken about the incident happened earlier and have not spoken about the incident mentioned in the charge sheet. The learned counsel submitted that A1 had married the daughter of the defacto complainant and subsequently she died naturally after giving birth to a female child. The child was with maternal grandmother and the petitioner/A1 in Crl.O.P.No.21774 of 2013 is the lawful guardian. To evade from taking custody of the child and to bring over the child, this false complaint has been foisted as against these petitioners. Even if anything is to be prosecuted, it has to be proceeded only with A1, who is the father and natural guardian of the female child and not against A2 and A3. Therefore, the complaint pending as against the petitioners in Spl.S.C.No.4 of 2011 is liable to be quashed.

3.The learned Government Advocate, Puducherry, would submit that there are specific allegations as against these petitioners in the complaint. During investigation, even in the statement recorded under Section 161 Cr.P.C., prima facie allegation has made out as against these petitioners. Once prima facie case materials are found, there is no question of quashing the complaint. Therefore, the petitions are liable to be dismissed.

4.Heard both sides and perused the records.

5.Admittedly, A1 is the husband of the defacto complainant's daughter. A1 and the deceased love each other and thereafter with the consent of both sides got married. She had given birth to a female child. Soon after three days of her delivery, she died naturally. After her death, the child was taken care of by the mother of the deceased/defacto complainant. On the day of occurrence, A1 had come to the house of the defacto complainant by car and it is alleged that A2 and A3 were sitting inside the car. A1, went into the house of the defacto complainant and during that time, he tried to snatch the child from one of the

prosecution witness and when she prevented, he dashed her and snatched the child from her and went to the car standing outside, where A2 and A3 were sitting inside the car and took away the child. This is evident on perusal of the statements recorded by the respondent police during investigation. Therefore, a prima facie allegation has been made out as against the petitioners.

6. Under such circumstances, this Court does not find any reason to invoke its power under Section 482 Cr.P.C., to quash the complaint in Spl.C.C.No.4 of 2011 as against these petitioners. Accordingly, these criminal original petitions are dismissed. Consequently, connected miscellaneous petitions are closed.

7. Since the calendar case is pending from the year 2011, the learned II Additional Sessions Judge, (Special Court for SC/ST cases), Puducherry, is directed to dispose of the case in Spl.C.C.No.4 of 2011, in accordance with law within a period of four months from the date of receipt of copy of this order.

Sd/-
Assistant Registrar(CS VIII)

//True Copy//

Sub Assistant Registrar

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To

1. The II Additional Sessions Court,
(Spl.Court for S.C & S.T Cases),
Puducherry.

2. The Superintendent of Police,
P.C.R.Cell,
Puducherry.

3. The Public Prosecutor(Pondy),
High Court, Madras.

+1cc to the Public Prosecutor(Puducherry) Sr.7143
+1cc to Mr.R.Ganesh Kumar, Advocate Sr.7049

CrI.O.P.Nos.21774 of 2013 & 23734 of 2011
and M.P.No.1 of 2013 & 1 of 2011

pm[co]
srg 10/03/2020