



BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

DATED: **22.07.2020**

CORAM:

THE HONOURABLE MR.JUSTICE **R.PONGIAPPAN**

CrI.O.P.(MD)No.7171 of 2020

and

CrI.M.P.(MD)No.3525 of 2020

WEB COPY

V.Alagesan

... Petitioner/Sole Accused

Vs.

1.The Deputy Superintendent of Police,
Srivaikundam,
Thoothukudi District.

(Crime No.246 of 2020, Kurumbur P.S.) ...Respondent/Complainant

2.Minor. P.Muthuraman

...Respondents/Defacto Complainant

Prayer:- Criminal Original Petition filed under Section 482 Cr.P.C. to call for the records relating to the proceedings in Crime No.246 of 2020, on the file of the first respondent police and quash the same as it has no *prima facie* case as against the petitioner.

For Petitioner

: Mr.Ananth C.Rajesh

For R1

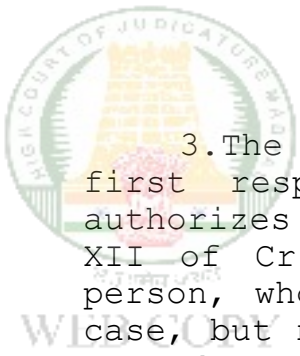
: Mr.S.Chandrasekar

Additional Public Prosecutor

ORDER

This Criminal Original Petition has been filed seeking the relief to call for the records related to the proceedings in Crime No.246 of 2020, on the file of the first respondent police and quash the same, as no *prima facie* case has been made out against the petitioner.

2.The learned counsel appearing for the petitioner would submit that based on the complaint given by the second respondent, who is aged about 13 years, the first respondent police herein registered a case in Crime No.246 of 2020 for the offences under Sections 294(b) and 323 of I.P.C. and Section 3(1)(r), 3(1)(s) and 3(2)(va) of the Scheduled Caste and Scheduled Tribes (Prevention of Atrocities) Amendment Act, 2015. In the said circumstances, receiving the complaint from the minor and based upon the said complaint, registering the case against the petitioner is a bar under Section 160(1) of Cr.P.C. Therefore, the registration of the case by the first respondent itself is illegal. Accordingly, the F.I.R. registered in Crime No.246 of 2020, on the file of the first respondent police has to be quashed as illegal.



3.The learned Additional Public Prosecutor appearing for the first respondent would submit that Section 160(1) of Cr.P.C. authorizes a Police Officer making an investigation under Chapter XII of Cr.P.C. to require the attendance before himself of any person, who appears to be acquainted with the circumstances of the case, but no male under fifteen years or woman shall be required to attend at any place other than the place in which such male or woman resides. Therefore, the submissions made by the learned counsel appearing for the petitioner is not at all relevant to the relief sought for in this Criminal Original Petition.

4.Before entering into the merits and demerits of the submissions made by the learned counsel on either side, it is necessary to see Section 160(1) of Cr.P.C., which reads as follows:-

'160. Police Officer's power to require attendance of witnesses

(1) Any police officer, making an investigation under this Chapter may, by order in writing, require the attendance before himself of any person being within the limits of his own or any adjoining station who, from the information given or otherwise, appears to be acquainted with the facts and circumstances of the case; and such person shall attend as so required:

Provided that no male person under the age of fifteen years or woman shall be required to attend at any place other than the place in which such male person or woman resides.'

5.In view of the said provision, it is made clear that only a male member under the age of fifteen years or woman has not been directed by the Investigation Officer to attend at any place other than the place in which such male person or woman resides for the purpose of investigation, otherwise, there cannot be any bar to receive the complaint from the person, who is below the age of 15 years. Chapter XII of Cr.P.C. deals about the information to the Police and their powers to investigate. Section 154(1) of Cr.P.C. narrates the manner in which a case has to be registered in respect of cognizable offence. Therefore, it is relevant to see Section 154 (1) of Cr.P.C., which reads as follows:-

'154. Information in cognizable cases -

(1) Every information relating to the commission of a cognizable offence, if given orally to an officer in charge of a police station, shall be reduced to writing by him or under his direction, and be read Over to the informant; and every such information, whether given in writing or reduced to writing as aforesaid, shall be signed by the person giving it, and the substance thereof shall be entered in a book to



be kept by such officer in such form as the State Government may prescribe in this behalf.'

6.On a conjoint reading of Sections 160(1) and 154(1) of Cr.P.C., it cannot be said that there is a bar to receive a complaint from the persons, who have aged 13 years.

7.The petitioner herein has filed this Criminal Original Petition without understanding the difference between the aggrieved party and the witness. Therefore, it cannot be said that the F.I.R. registered in Crime No.246 of 2020 is having any *prima facie* case. Since the case has been registered for the offences under Sections 294(b) and 323 of I.P.C. and Section 3(1)(r), 3(1)(s) and 3(2)(va) of the Scheduled Caste and Scheduled Tribes (Prevention of Atrocities) Amendment Act, 2015 and also the said offences are cognizable in nature, no permission is required for the Investigation Officer for registering the case.

8.In the light of the above discussion, I am of the considered view that this Criminal Original Petition filed by the petitioner is devoid of merits and therefore, the same is liable to be dismissed. Accordingly, this Criminal Original Petition is dismissed. Consequently, connected Miscellaneous Petition is closed.

Sd/-

Assistant Registrar

// True Copy //

/ /2020

Sub Assistant Registrar(CS)

Smn2

Note : In view of the present lock down owing to COVID-19 pandemic, a web copy of the order may be utilized for official purposes, but, ensuring that the copy of the order that is presented is the correct copy, shall be the responsibility of the advocate/litigant concerned.

To

1.The Deputy Superintendent of Police,
Srivaikundam,Thoothukudi District.

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

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