



BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

DATED : 04.02.2020

CORAM:

THE HONOURABLE **MR. JUSTICE A.D.JAGADISH CHANDIRA**

Crl.O.P.(MD)No.15637 of 2019

and

Crl.M.P.(MD)Nos.9309 & 9312 of 2019

WEB COPY

1.S.Vidivelli
2.M.Veerammal
3.C.Nallammal
4.S.Murugesan

... Petitioners

Vs.

1.The Inspector of Police,
All Women Police Station,
Usilampatti,
Madurai District.
(Crime No.40 of 2016)

2.P.Muthulakshmi

... Respondents

PRAYER: Criminal Original Petition filed under Section 482 of the Cr.P.C., to call for the records pertaining to impugned charge sheet in S.C.No.647 of 2018 pending before the Sessions Court, Mahaleer Neethimandram, Madurai District in Crime No.40 of 2016 under Sections 417, 376, 294(b) and 506(i) IPC, dated 28.08.2016 on the file of the respondent No.1 and quash the same as illegal as against the petitioners concern.

For Petitioners : Mr.I.Pinaygash

For R-1 : Mr.S.Chandrasekar,
Additional Public Prosecutor

O R D E R

This petition has been filed to quash the proceedings in S.C.No.647 of 2018 pending before the Sessions Court, Mahaleer Neethimandram, Madurai District in Crime No.40 of 2016 under Sections 417, 376, 294(b) and 506(i) IPC, dated 28.08.2016 on the file of the first respondent.

2.Heard learned counsel for the petitioners and learned Additional Public Prosecutor for the official respondent.

3.In the considered view of this Court, the grounds raised by the petitioners are purely factual in nature. The said grounds can be raised only before the Court below, in the course of



proceedings and the Court below shall consider the same on its own merits and in accordance with law.

4. Therefore, there is no merit in this petition. Hence, this Criminal Original Petition is dismissed.

WEB COPY

5. At this juncture, the learned Counsel for the petitioners submitted that the presence of the petitioners before the Trial Court may be dispensed with.

6. Accepting the said submission, the presence of the petitioners before the trial Court shall be dispensed with on condition that they shall be present on the first day of appearance, on the date fixed for receiving the copies, initial questioning, reply to charges and questioning under Section 313 Cr.P.C., and at the time of passing judgement and whenever insisted upon by the trial Court.

7. The petitioners are further directed to give an undertaking in the form of affidavit that the counsel representing them will cross examine the prosecution witnesses on the day they are examined in chief. The petitioners shall not dispute the identity of the witnesses. The petitioners shall appear before the Court in the event if their presence is insisted by the Trial Judge for the purpose of identification. If the petitioners adopts any dilatory tactics, it is open to the Trial Court to insist for their appearance and deal with the petitioners in accordance with the judgment of Supreme Court of India, ***in State of Uttar Pradesh Vs. Shambunath Singh***, reported in ***2001 (4) SCC 667***. Consequently, connected miscellaneous petitions are closed.

Sd/-

Assistant Registrar (AS)

// True Copy //

/ /2020

Sub Assistant Registrar (CS)

gns

To

1. The Sessions Judge, Mahaleer Neethimandram,
Madurai District.



2.The Inspector of Police,
All Women Police Station,
Usilampatti,
Madurai District.

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

+1 CC to Mr.I.PINAYGASH, Advocate (SR-4847[F] dated 05/02/2020)

CrI.O.P. (MD)No.15637 of 2019
04.02.2020

KM/(19.02.2020) 3P 5C