

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 16.04.2021

CORAM:

THE HON'BLE MR.JUSTICE M.NIRMAL KUMAR

CRL.O.P.No.6884 of 2021 and
CRL.M.P.No.4563 of 2021

Abirami

... Petitioner

Versus

1.State rep by:

The Inspector of Police,
T-13, Kundrathur Police Station,
Kundrathur, Chennai 600 069.
Crime No.1101/2018.

2.Mr.Senthil

... Respondents

PRAYER: Criminal Original Petition filed under Section 482 of the Code of Criminal Procedure, to call for the records in Crl.M.P.No.839 of 2020 on the file of the Sessions Judge Mahila Court, Chengalpet and set aside the order dated 03.03.2021 and may also be pleased to directed the 2nd respondent to produce the documents sale register, cash register, stock register and GSTR-1 and GSTR-3B sale tax returns by allowing Crl.M.P.No.839/2020 in S.C.(K).No.77/2018 on the file of Sessions Judge Mahila Court, Chengalpet.

For Petitioner : Mr.G.Krishnamurthy

For 1st Respondent : Mr.M.Mohamed Riyaz,
Additional Public Prosecutor

ORDER

The petitioner/accused has filed a petition under Section 91 Cr.P.C., in Crl.M.P.No.839 of 2020 in S.C(K).No.77 of 2018 before the learned Sessions Judge, Mahila Court, Chengalpet to summon PW4/Senthil to produce the Sales Register, Cash Register/Cash Book, Stock Register/Stock Book, Purchase Register, Schedule Register and GSTR-1 and GSTR-3B of the Sales Tax Returns filed by PW4. The learned Sessions Judge, Mahila Court, Chengalpet, by order, dated 03.03.2021, dismissed the above petition, against which the present Criminal Original Petition.

2.The contention of the petitioner is that the two minor children of the petitioner aged about 6 years old Ajay and 4 years old Karthiga were found dead in the house and the Doctor, who conducted postmortem on the bodies of the children (deceased) issued the postmortem certificate that the death could have occurred due to systematic absorption of drugs. Further, the viscera report of 4 year old child Karthiga shows 'Loro Alprazolam' poisonous substance was found and from the viscera of 6 year old child Ajay shows 'Lorazepam' poisonous substance was found. The case of the prosecution as projected is that the petitioner purchased the said drugs from PW4/Senthil, who is having a medical shop namely M/s.Mani Medicals. During investigation, the bills for purchasing the drugs were seized and the same was marked as MO1 during trial. According to the petitioner, these bills have been forged and the medicines are prohibited medicines which can be sold only with the Doctor's prescription and further, separate records has to be maintained for the scheduled drugs. These records have not been collected by the investigating officer during investigation. Hence, the petitioner had filed the petition under Section 91 Cr.P.C., seeking for Sales Register, Cash Register/Cash Book, Stock Register/Stock Book, Purchase Register, Schedule Register and GSTR-1 and GSTR-3B of the Sales Tax Returns. These records are essential to prove the innocence of the petitioner.

3.The learned counsel for the petitioner submitted that the allegations against the petitioner is that she was having illegal relationship with A2. Since her husband doubted the same, there was some misunderstanding between them and thereafter, he left her. Since the children were obstruction to the illegal relationship of the petitioner with A2, she done away the life of her own children by admitting the said poisonous substances. The specific case of the petitioner is that she was not in the house when the children were found dead and the children could have been murdered by some other persons. The trial Court without considering all these aspects, dismissed the petition. The learned counsel for the petitioner further submitted that a questionnaire was put to the Doctor seeking reason for the death of the children. The Doctor had given answer that smothering is possible when the person was drugged.

4.The learned Additional Public Prosecutor appearing for the 1st respondent Police submitted that in this case there are totally 26 witnesses, of which already PW1 to PW24 were examined. One Senthil, who is running M/s.Mani Medicals was examined as PW4, through whom carbon paper of cash bill No.5263 marked as MO1. He further submitted that during investigation, it was found that the original cash book and the Doctor

prescription were destroyed by the petitioner. There are witnesses who have clearly stated about the role played by the petitioner and the medical evidence is in conformity to the case of the prosecution. At the end of the trial, the petitioner has filed the above petition to protract and prolong the trial proceedings. The petitioner is none other than the mother of the two children, who done away her children life. Since the occurrence had taken place inside the house of the petitioner, it is her to give proper explanation how the children died and how such medicine were found in the viscera of the deceased. So far the petitioner did not give any plausible explanation or materials justifying the same. Hence, he prayed for dismissal of the above petition.

5.This Court on considering the rival submissions and on perusal of the materials, it is seen that in this case, one Senthil, who is running M/s.Mani medicals was examined as PW4 and the copy of the medicine bill No.5263 was marked as MO1. During trial, PW4 was cross examined in length as well as other witnesses. The documents sought to be produced would no way improve the case of the petitioner/accused. In this case, admittedly, the two children aged about 4 and 6 years died in unnatural and poisonous substances were found in the viscera report of the children. While being so, summoning of Sales Register, Cash Register/Cash Book, Stock Register/Stock Book, Purchase Register, Schedule Register and GSTR-1 and GSTR-3B of the Sales Tax Returns would no further the case of the petitioner. Now the case is at the penultimate stage for examination of the Investigating Officer. Further, the trial Court in a detailed order, had given a well reasoned finding and the same need not be interfered with. Therefore, this Court is not inclined to set aside the order dated 03.03.2021 in CrI.M.P.No.839 of 2020 in S.C(K).No.77 of 2018 passed by the learned Sessions Judge, Mahila Court, Chengalpet and same is hereby affirmed.

6.In the result, this Criminal Original Petition stands dismissed. Consequently, the connected Criminal Miscellaneous Petition is closed.

s/d-
Assistant Registrar

True Copy

Sub-Assistant Registrar

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To

1.The Sessions Judge,
Mahila Court, Chengalpet,

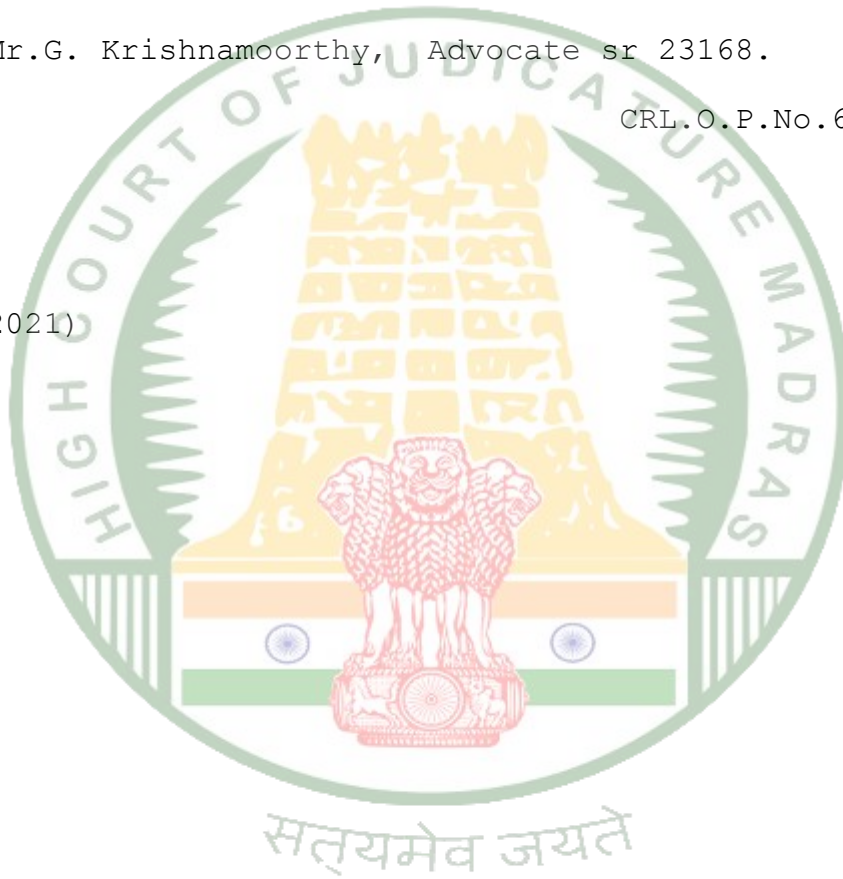
2.The Inspector of Police,
T-13, Kundrathur Police Station,
Kundrathur, Chennai 600 069.

3.The Public Prosecutor,
High Court, Madras.

+1 CC to Mr.G. Krishnamoorthy, Advocate sr 23168.

CRL.O.P.No.6884 of 2021

RLD(CO)
SP(18/06/2021)



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