

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 08.12.2021

CORAM:

THE HON'BLE MR.JUSTICE M.NIRMAL KUMAR

CRL.O.P.NO.22910 OF 2021

AND

CRL.M.P.NO.12510 OF 2021

Sunitha

..Petitioner

Versus

1. The State
Represented by its Inspector of Police,
J-7 Velchary Police Station
Chennai-42.
2. S.Kanaka

... Respondents

PRAYER: Criminal Original Petition filed under Section 482 of the Code of Criminal Procedure to call for the records from the learned 18th Metropolitan Magistrate Court, Saidapet pertaining to the impugned C.C.No.5020/2017 and to quash the same.

For Petitioner	:	Mr.P.Vijendran
For Respondents	:	Mr.E.Raj Thilak (R1) Additional Public Prosecutor

O R D E R

The Petitioner/Accused who is facing trial in C.C.No.5020 of 2017 for the offence punishable under Sections 294(b), 324 and 506 (2) IPC has filed this quash petition.

2. The contention of the learned counsel appearing for the petitioner is that the petitioner, who is suffering from Paranoid Schizophrenia is said to have assaulted P.W.1 using hammer. He further submitted that in the Medical report issued by the Institute of Mental Health, Kilpauk it is stated that the petitioner who is suffering from Paranoid Schizophrenia was taking treatment from 2014 to 2017 and evaluation has been made on her, still she continues to suffer. He further submitted that as per Section 330 Cr.P.C, Section 84 IPC and following The Mental Healthcare Act, 2017 (in short 'the Act'), the petitioner

acts to be liberally considered. He further submitted that though the said fact has been brought to the notice of the Lower Court, the Lower Court has insisted her presence and issued Non Bailable Warrant against the petitioner on 24.11.2021. He further submitted that the petitioner is willing to proceed with the Trial and the trial Court may be directed to act sympathetically taking note of her health condition.

3. The learned Additional Public Prosecutor submitted that P.W.1 to P.W.3 have been examined. He further submitted that the Doctor Institute of Mental Health, Kilpauk, is yet to be examined and if the Doctor confirms the health condition as contended by the petitioner, the presence of the petitioner may not be insisted.

4. Considering the submissions made by the learned counsel appearing on either side as the disease of the petitioner is not in dispute, the trial court, by taking note of Section 330 Cr.P.C. and Section 84 I.P.C. and the Mental Healthcare Act, 2017, cannot insist the presence of the petitioner.

5. In view of the same, NBW issued against the petitioner on 24.11.2021 is hereby recalled and the petitioner is directed to participate in the trial through her counsel and the learned counsel shall cross examine the witness on the same day itself. The Trial Court is directed to conduct trial on the day-to-day, in accordance with law. and complete the same, within a period of three months from the date of receipt of a copy of this order.

This Criminal Original Petition is disposed of accordingly. Consequently, connected Miscellaneous Petition is closed.

Sd/-
Assistant Registrar(CS-V)

//True Copy//

Sub Assistant Registrar

arr

To

1. The Inspector of Police,
J-7 Velchary Police Station, Chennai-42.
 2. The Public Prosecutor,
High Court, Madras.
- +lcc to Mr.P.Vijendran, Advocate, S.R.No.65194

Cr1.O.P.No.22910 of 2021

RGN(CO)
RLP(04/01/2022)