



WEB COPY

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 24.11.2021

C O R A M

THE HONOURABLE MR.JUSTICE N. SATHISH KUMAR

CRL. O.P. NO.8819 OF 2017

&

CRL.M.P.NOS.6317 AND 6318 OF 2017

1. Srinivasan
2. Kalavathi
3. Yashika

... Petitioners/
Accused

Versus

1. The State rep. by
Deputy Superintendent of Police
Uthukottai Sub-Division
Thiruvallur District
(Crime No.6/2015)
2. Selvi. Suganya
D/o.Venkatesan
M.G.R.Nagar
Vengal Village
Tiruvelllore Taluk and Dist.

... Respondents/
Complainant

(R2 Suo Moto impleaded as per order dated 27.06.2017 in CRL.O.P. No.8819/2017 and CRL.M.P.NOS.6317 and 6318/2017)

Prayer:

Criminal Original Petition filed under Section 482 of Cr.P.C. to call for the records in P.R.C.No.3 of 2016 pending on the file of Judicial Magistrate I, Thiruvallur and quash the same.

For Petitioner ... Mr.M.Velumurugan

For Respondent ... Mr.S.Vinoth Kumar

Government Advocate (Crl.side)



O R D E R

This Criminal Original Petition has been filed to quash the complaint in P.R.C.No.3 of 2016 pending on the file of Judicial Magistrate I, Thiruvallur for the offences under Sections 417, 376(i), 315, 352 and 506(i) read with Section 34 of IPC and Section 3(i)(w)(i) and 3(i)(va) of the Scheduled Castes and the Scheduled Tribes (Prevention of Atrocities) Act, 1989 (hereinafter referred to as 'the SC/ST Act').

2. Heard the learned counsel for the petitioners and learned Government Advocate (Crl.side) appearing on behalf of the firar respondent.

3. The contention of the learned counsel for the petitioners is that these petitioners are father, mother and sister of A1 respectively and the allegation of sexual assault made in the complaint is only against the first accused, whereas, these petitioners have been falsely implicated. It is his further contention that the statement of the Doctor clearly indicates that there was no miscarriage and hence the petitioners cannot be prosecuted for the offence under Section 315 of IPC. Similarly, there is no whisper whatsoever made against these petitioners for committing offence under the SC / ST Act. Even when the victim has not made any such statement, forcing these petitioners to face the trial for the offence under the SC/ST Act is nothing but an abuse of process of law.

4. Learned Government Advocate (Crl.side) appearing on behalf of the respondent submitted that allegations have been made by the victim as against these petitioners and therefore, the present petition is liable to be dismissed.

5. This Court is of the view that the evidentiary value cannot be gone into at this stage and it has to be decided during the course of trial. As far as the allegations under the SC/ST Act is concerned, it is contended that no statement has been made by the victim in this regard. Having regard to the above, this Court is of the view that as allegations have been made with regard to miscarriage, whether the miscarriage has been done at the instance of the accused or not has to be gone into only at the time of trial. Therefore, merely on the basis of the statement of the Doctor, entire charge sheet cannot be quashed. However, the fact remains that there is no allegation against these petitioners for committing the offence under Section 3(1)(w)(i) of SC/ST Act and even the victim has not given any statement.



6. In such view of the matter, the trial Court while framing the charges shall take into consideration the statement made by the victim and frame the charges omitting the SC/ST Act. The personal appearance of the petitioners before the trial Court is dispensed with except for receiving papers and answering the questions etc., or any other date fixed by the trial Court. The trial Court is directed to dispose of the case as expeditiously as possible and in any event within a period of six months from the date of receipt of a copy of this order.

7. With the above direction, the Criminal Original Petition is disposed of. Consequently, the connected miscellaneous petition is closed.

Sd/-
Assistant Registrar(CS II)

//True Copy//

Sub Assistant Registrar

gba/gpa

To

1. Judicial Magistrate I
Thiruvallur
2. Do-thro Chief Judicial Magistrate,
Thiruvallur.
3. The Deputy Superintendent of Police
Uthukottai Sub-Division
Thiruvallur District
4. The Public Prosecutor
Madras High Court
Chennai.

CrI. O.P. No.8819 of 2017 &
CrI.M.P.Nos.6317 and 6318 of 2017

VSNII(CO)
PM/08/12/2021