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IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 19.11.2021

CORAM

THE HONOURABLE MR.JUSTICE N.SATHISH KUMAR

CRL. O.P. NO.16460 OF 2017

AND

CRL.M.P.NOS.10133 & 10134 OF 2017

1.Rajan

2.Kumar @ Suresh

..Petitioners

Vs.

State by

1. The Deputy Superintendent of Police,
Perur Division, Coimbatore District.

2. The Inspector of Police,
Kinathukadavu Police Station,
Kinathukadavu, Coimbatore District.
(Crime No.1072 of 2011)

3. Thulasi @ Thulasiammal

..Respondents

[R3 impleaded as per the order of this Court
in Crl.M.P.No.10613 of 2017 in CRL. O.P. No.16460 of 2017
dated 26.10.2017]

PRAYER: Criminal Original Petition filed under Section 482 of Criminal Procedure Code, praying to call for the entire records concerned in S.C.No.8 of 2017 on the file of the Principal District and Sessions Court for SC & ST (PA) Act cases, Coimbatore, Coimbatore District and quash the same.

For Petitioners : Mr.C.Prakasam



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For Respondents : Mr.S.Vinoth Kumar
Govt. Advocate (Crl.Side)
for R1 & R2
Mr.K.R.Sankaran for
Mr.K.S.Karthick Raja for R3

ORDER

This Criminal Original Petition has been filed to call for the entire records concerned in S.C.No.8 of 2017 on the file of the Principal District and Sessions Court for SC & ST (PA) Act cases, Coimbatore, Coimbatore District and quash the same.

2. This Petition is filed to quash the proceedings pending in S.C.No.8 of 2017 as against the present petitioners who have arrayed as accused 5 and 6. They have been charged under Section 147, 307, 376 IPC r/w 3(2)(v) of SC/ST (PA) Act. The main allegation against the petitioners is that they have committed rape. The main contention of the learned counsel for the petitioners is that there is no materials against the petitioners in Section 161 of Cr.P.C statements. Thereafter, during the pendency of the petition the witnesses have been examined. It is further submitted that there are previous FIRs also been burked. Hence submitted that it is a fit case in exercising jurisdiction under 482 of Cr.P.C.

3. The learned Government Advocate appearing for the respondent would submit that 8 witnesses have already been examined. The trial is in progress and the offences are very serious in nature. The allegations have to be unearthed only in trial. Therefore, quashing of the entire case does not arise at all.

4. This Court is of the view that mainly because the some contradiction, some omission found in the 161 statement as pointed out by the learned counsel for the petitioners, the same cannot be a ground at all to entertain the quash petition. Whether the allegations are proved or not is a matter of evidence. It is to be seen only in the trial and probative value of the statements cannot be gone into this stage. As the allegations are very serious in nature as against the Petitioners/accused and besides committing atrocities under special act, it is to be proved in the trial. In such a view of the matter, this Court is of the view that quashing of the case cannot be considered, at this point of time. The criminal original petition is liable to be dismissed. Accordingly, this Criminal Original Petition is dismissed.



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5. In view of the above, this Criminal Original Petition is dismissed. Consequently, the connected miscellaneous petitions are closed.

Sd/-

Assistant Registrar(CS-IV)

//True Copy//

Sub Assistant Registrar

nr/ggs

To

1. The Principal District and Sessions Court
for SC & ST (PA) Act cases,
Coimbatore, Coimbatore District.
2. The Deputy Superintendent of Police,
Perur Division, Coimbatore District.
3. The Inspector of Police,
Kinathukadavu Police Station,
Kinathukadavu, Coimbatore District.
4. The Public Prosecutor,
High Court, Madras.

Crl. O.P. No.16460 of 2017
and Crl.M.P.Nos.10133 & 10134 of 2017

PA(CO)
RLP(17/12/2021)