



BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

DATED : 24.11.2021

CORAM

WEB COPY

THE HONOURABLE MRS. JUSTICE R. THARANI

Crl.R.C.(MD)No.626 of 2021
and
Crl.M.P.(MD)No.6856 of 2021

S.Porselvi ... Revision Petitioner/
Petitioner/Accused No.3

Vs.

1.The State represented by
The Deputy Superintendent of Police,
Sub-Division,
Sattur,
Virudhunagar District.
(Crime No.05 of 2012-AWPS, Sattur)

... 1st Respondent/Respondent/
Complainant

2.Anitha ... 2nd Respondent/Respondent/
De-facto Complainant

Prayer : Criminal Revision Case filed under Section 397 r/w 401 Cr.P.C, to call for the records in Cr.M.P.No.2752 of 2017 in Spl.S.C.No.22 of 2017 order dated 25/07/2019 on the file of the Special Court (PCR) for SC/ST Cases, Srivilliputhur, Virudhunagar District.

For Petitioner : Mr.S.Saravanan

For Respondents : Mr.K.Sanjay Gandhi
Government Advocate for R1.
No Appearance for R2

ORDER

This Criminal Revision has been filed to set aside the order passed in Cr.M.P.No.2752 of 2017 in Spl.S.C.No.22 of 2017 order dated 25.07.2019 on the file of the Special Court (PCR) for SC/ST Cases, Srivilliputhur, Virudhunagar District.



2. The alleged offence against the petitioner is that the second respondent is residing in the TELC and she was doing tenth standard. The first accused is having a habit of making the inmates to do his household works when the victim was attending the household works, he raped the victim girl. Though the second and third accused are aware of this fact, they aided A1 and they threatened the victim girl. A case in Crime Number.5 of 2012 was registered against the petitioners and others under Sections 376(c) (2), 506(i) of IPC, Section 4 of TNPWH Act and Section 3(1)(xii), 3 (2)(v) of SC/ST (POA) Act r/w 34 I.P.C. The petitioner has filed a discharge petition in Cr.M.P.No.2752 of 2017 before the Special Court (PCR) for SC/CT Cases, Srivilliputhur. That petition was dismissed by the trial Court. Against the same, the petitioner has filed this revision petition.

3. On the side of the revision petitioner, it is stated that the trial Court failed to consider the available records in the proper perspective. The investigation report itself is improper. There is no proof against the petitioner, who is A3 in the case. In the 164 statement recorded by the learned Judicial Magistrate No.II, Sattur, it is clearly stated that the petitioner took the victim to the hospital on 06.04.2012 for stomach pain. There was no *mens rea* on the part of the petitioner. The prosecution failed to prove the offence alleged against the petitioner. The petitioner took the second respondent to the hospital for medical examination on 06.04.2012, at about 06.00 p.m., and the complaint was registered by the respondent police at about 08.00 p.m., and there is no chance of concealing any evidence. The doctor has given a report that there was no evidence of abortion and that Section 34 of IPC is not applicable against the petition. She accompanied the second respondent to the hospital on the statement of second respondent having stomach pain and prayed the discharge petition to be allowed.

4. On the side of the prosecution, it is stated that totally four accused involved in the offence. A4 was discharged by the Court. The petitioner is A3. The victim girl was 17 years old at the time of occurrence. The offence against the petitioner can be proved only after the completion of the trial. There is a *prima facie* case made out against the petitioner and there is no necessity to discharge the petitioner at the present stage.

5. The offence alleged against the petitioner cannot be decided at this stage. Only after the completion of the trial, the Court can come to a proper conclusion. The victim is a minor girl, who belonged to the downtrodden community.

6. In the above circumstances, the petitioner cannot be discharged of the offences before the completion of the trial. Hence



this Criminal Revision Case is dismissed. Consequently, connected miscellaneous petition is closed.

Sd/-

Assistant Registrar (CO)

// True Copy //

WEB COPY

/ /2021

Sub Assistant Registrar(CS)

mga/csm

NOTE: In view of the present lock down owing to COVID-19 pandemic, a web copy of the order may be utilized for official purposes, but, ensuring that the copy of the order that is presented is the correct copy, shall be the responsibility of the advocate/litigant concerned.

To

- 1.The Judge,
Special Court (PCR) for SC/ST Cases,
Srivilliputhur,
Virudhunagar District.
- 2.The Deputy Superintendent of Police,
Sub-Division,
Sattur,
Virudhunagar District.
- 3.The Additional Public Prosecutor,
Madurai Bench of Madras High Court,
Madurai.

Crl.R.C.(MD)No.626 of 2021

and

Crl.M.P.(MD)No.6856 of 2021

24.11.2021

MGJ(09.12.2021) 3P 4C