



BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

DATED: **28.09.2021**

CORAM:

THE HONOURABLE MR.JUSTICE **G.ILANGO VAN**
Crl.O.P. (MD) No.6242 of 2021

WEB COPY

R.Rajeswari ... Petitioner/Accused No.4
Vs.

1.The State rep.by
Inspector of Police,
Swamimalai Police Station,
Thanjavur (Dt)
(In Crime No.142/2012) ... 1st Respondent/ Complainant

2.G.Anbu ...2nd Respondent/Defacto Complainant

PRAYER: Criminal Original Petition is filed under Section 482 of Cr.P.C, to call for the records relating to the proceedings in C.C.No.01 of 2014 on the file of the Judicial Magistrate No.II, Kumbakonam and quash the same.

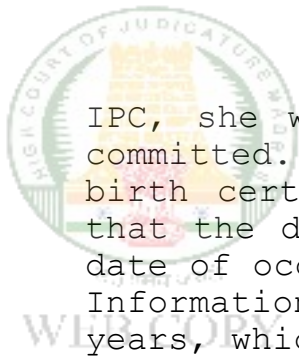
For Petitioner	: Mr.B.Janarthkumar
For R1	: Mr.R.Meenakshi Sundaram Additional Public Prosecutor
For R2	: Mrs.S.Mahalakshmi

ORDER

This petition is filed seeking quashment of C.C.No.01 of 2014 on the file of the learned Judicial Magistrate No.II, Kumbakonam.

2.The case of the prosecution is that on 25.07.2012 at about 07.00 am., the accused persons caused damage to the teak tree branches of the de-facto complainant and when that was questioned, all the accused persons abused the de-facto complainant in filthy language and they assaulted him with deadly weapon and sticks. The 6th accused assaulted the de-facto complainant on his shoulder and below the right eye. So, the 1st accused was charged under sections 148, 294(b), 324 and 506 (ii) of IPC, the accused 2, 3 and 4 were charged under sections 147, 294(b) and 324 of IPC, the 5th accused was charged under sections 147 and 294(b) of IPC and the 6th accused was charged under sections 147 and 323 of IPC. This petitioner was arrayed as 4th accused in the aforesaid crime.

3.The charge against this petitioner is that she assaulted the victim. Seeking quashment of the same, this petition came to be filed solely on the ground that on the date of alleged occurrence, this petitioner age was only about 10 years. As per section 83 of



IPC, she was immature to know the act, which was alleged to have committed. For the purpose of showing the age of this petitioner, birth certification is also enclosed. On seeing the same, we find that the date of birth of the petitioner is 11.06.2002. So, on the date of occurrence, her age is about 10 years, whereas, in the First Information Report, the age of the petitioner is mentioned as 39 years, which absolutely seems to be a wrong statement.

4.A report was called for from the learned Judicial Magistrate No.II, Kumbakonam, as to the stage of the proceedings as well as the position of the co-accused. He submitted a report, wherein it has been stated that because of the stay order passed by this court, in this case, the further proceeding has been stalled and now the copies were not furnished to the accused persons.

5.As I mentioned earlier, the entire records have been called for from the concerned court and perusal of the case records shows that this petitioner has been shown as A4, who is aged about 39 years as mentioned earlier, it is absolutely incorrect statement. It appears that the Investigating Officer even without verifying the age of the petitioner has concluded the investigation and filed a final report. So the case ought to have split up against this petitioner, as per the Juvenile Justice (Care and Protection of Children) Act, 2015. But that was not undertaken. As per section 14 of the Juvenile Justice (Care and Protection of Children) Act, 2015, the proceedings ought to have been completed within a period of four months and if extended within six months. But it appears that such procedures have not been undertaken by the concerned court. So even as mentioned in the petition, as per section 83 of the IPC, this petitioner on the date of the occurrence seems to be a girl of immaturity. Even as per the statement of the victim as well as the Investigating Officer, the alleged crime against this petitioner is that she instigated the other accused persons to assault the victim.

6.So in view of the above said illegality, the criminal proceedings in in respect of C.C No.1 of 2014 pending on the file of the Judicial Magistrate No.II, Kumbakonam, is hereby quashed in respect of this petitioner only. In respect of the other accused persons, the trial may proceed in accordance with law, if it is pending.

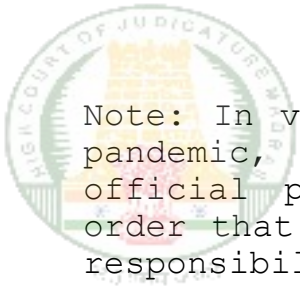
Sd/-

Assistant Registrar (W)

// True Copy //

/ /2022

Sub Assistant Registrar(CS)



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.

WEB COPY

To

- 1.The Judicial Magistrate No.II,
Kumbakonam.
- 2.Inspector of Police,
Swamimalai Police Station,
Thanjavur (Dt)
- 3.The Additional Public Prosecutor,
Madurai Bench of Madras High Court,
Madurai.

Crl.O.P. (MD)No.6242 of 2021
28.09.2021

ac (CO)

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