



IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 14.11.2022

CORAM:

THE HONOURABLE MS.JUSTICE R.N.MANJULA

Crl.O.P.No.1890 of 2021

1.Kasthuri

2.Ashok Kumar

3.Gunasekar

...

Petitioners

versus

1.State rep. by its,

The Inspector of Police,
All Women Police Station,
Ulundurpet,
Villupuram District.

2.Abirami

...

Respondents

PRAYER: Criminal Original Petition filed under Section 482 of the Criminal Procedure Code, praying to call for the records pertaining to the proceedings pending in S.C.No.362 of 2020 on the file of the learned Sessions Judge, Magalir Neethi Mandram at Villupuram District and quash the same.

For Petitioners : Mr.D.Dayalan

For Respondent No.1 : Mr.A.Damodaran

Additional Public Prosecutor

For Respondent No.2 : Mr.B.Abdul Samath



ORDER

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This Criminal Original Petition has been filed to quash the proceedings in S.C.No.362 of 2020 on the file of the learned Sessions Judge, Magalir Neethi Mandram, Villupuram District.

2. The petitioners are the accused 2 to 4 in a case on the Charge Sheet has been filed by the respondent police after investigating the case in Crime No.8 of 2014 for the offences under Sections 417, 376, 294(b), 352, 506(ii) of IPC and the same was taken on file in S.C.No.362 of 2020.

3. The case of the prosecution is that the second respondent, who is a divorcee was staying with her parents house; at that time, the first accused namely Kothandapani had developed a love affair with the second respondent; on 03.04.2013, at about 5.00p.m., the first accused called second respondent to his house and had physical relationship with her by giving a false promise to marry her; the second respondent became pregnant and informed it to the first accused but he refused to marry



her even thereafter; instead the first accused gave pressure to the second respondent to abort the pregnancy; the second respondent informed this to the mother of the first accused namely the first petitioner herein; they joined with the other accused and abused the second respondent with unparliamentary words and assaulted her; they also insulted her by pulling her hair; instead of enquiring the first accused, the petitioners who are his mother, brother and father had insulted and harassed the second respondent and hence, she has given a case in which the charge sheet has been filed.

4. Heard the learned counsel for the petitioners and the learned Additional Public Prosecutor appearing for the first respondent police and the learned counsel for the second respondent / *de facto* complainant.

5. The learned counsel for the petitioners submitted that the main allegation of the second respondent is only against the first accused and the petitioners being the parents and brother of the first accused have been impleaded with some ulterior motive. The petitioners are not involved in the offences under Sections 417 and 376 of IPC as alleged by the second



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respondent. The rest of the offences under Sections 294(b), 352, 506(ii) of IPC are not made out against these petitioners and the materials available on record are not sufficient enough to subject the petitioners under trial; since the second petitioner was working in Delhi and the first petitioner was staying along with him at the time of occurrence at Delhi, she can not be implicated in this case.

6. The learned Additional Public Prosecutor appearing for the first respondent police submitted that there are strong allegations made against these petitioners as well and there are sufficient ingredients available on record to make out charges as against these accused under Sections 294(b), 352, 506(ii) of IPC.

7. On perusal of records, it is seen that the second respondent / *de facto* complainant has given a statement by alleging the manner in which she was made to believe by the first accused that he would marry her. On such assurance given by the first accused, the *de facto* complainant had consented for sexual relationship with him and got conceived. When she informed the same, the first accused had refused to



marry her but he forced her to abort the fetus. When she brought the said facts to the notice of the family members of the first accused namely his parents and brother, they joined with the first accused abused her.

8. In fact, the first accused has been staying in abroad. According to the prosecution he did not co-operate well for the investigation. If the petitioners claim that the allegations are only against the first accused and all those acts have been committed by the first accused, they should have taken the issue with the first accused. Apart from the statement of the second respondent, the parents and cousin of the second respondent have also given statement about what had happened to the second respondent when she met the petitioners and demanded them to arrange the marriage between herself and the first accused.

9. The learned counsel for the petitioners submitted that the witnesses are interested witnesses as they are closely related to the *de facto* complainant. Since the complaint has been given on the allegation that the first accused had developed a love affair with the second respondent and the offences were committed subsequent to that, one cannot expect private



witnesses to know about these personal matters between the first accused and the second respondent. So the family members of the second respondent have given statement about what they know. So, it cannot be claimed that there is no reliable materials available to charge the petitioners 1 to 3.

10. In fact, the second respondent had delivered a female child. But the first accused continues to stay abroad and evades to do his duty in co-operating the investigation and for conducting the trial. Since there are sufficient materials available for subject these petitioners under trial, I feel all those submissions that have been made by the learned counsel for the petitioners can be taken as defense during the trial. Even the submission that the petitioners 1 and 2 were not available at Ulundurpet, Villupuram, at the time of occurrence is also a question of fact and that has to be proved only during the time of trial.



11. With the above observations, this Criminal Original

Petition stands dismissed.

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14.11.2022

Speaking order / Non-speaking order

Index : Yes / No

Internet : Yes

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To

1.The Sessions Judge,
Magalir Neethi Mandram,
Villupuram District.

2.State rep. by its,
The Inspector of Police,
All Women Police Station,
Ulundurpet,
Villupuram District.

3.The Public Prosecutor,
Madras High Court,
Chennai.



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R.N.MANJULA, J.

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