



IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 26.04.2022

CORAM:

THE HON'BLE MR.JUSTICE SATHI KUMAR SUKUMARA KURUP

WEB COPY

CrI.O.P.No.4964 of 2019

and

CrI.M.P.No.2903 of 2019

1.Ilan Kumaran
2.Chandra @ Selvi
3.Nirmal Kumar
4.Shakul Ahameed @ Labbi Shakul Ahamed
... Petitioners/Accused

Vs.

1.The State Rep.by
The Inspector of Police
Protection of Civil Right Cell (PCR) Police Station
Puducherry
Crime No.1of 2015.
2.R.Radha Krishnan
... Respondents/Complainant/Defacto Complainant

PRAYER: Criminal Original Petition had been filed under Section 482 of Cr.P.C, praying to call for the records and quash the proceedings in C.C.No.63 of 2018 pending on the file of the learned Chief Judicial Magistrate, Puducherry.

For Petitioners : Mr.Jagadesh Kumar
for Mr.S.Sugendran

For Respondents : Mr.A.Alexander for R1
Government Advocate(Puducherry)

ORDER

This petition has been filed to call for the records and quash the proceedings in C.C.No.63 of 2018 pending on the file of the Chief Judicial Magistrate, Puducherry.

2. When the case came up for hearing on 01.04.2022, there was no representation for the Petitioners. This Court



raised queries with the learned Junior Counsel attached to the Office of the learned Public Prosecutor for Pondicherry. As per the submission of the learned Counsel, on 01.04.2022 this Court had passed the order, and the relevant paragraph is also follows:

"2. On enquiry with the learned Counsel attached to the Office of the Public Prosecutor for Pondicherry, he submitted that there had been financial transaction between the Accused and the Defacto complainant. In the course of financial transaction, there had been a wordy quarrel in which the Accused/Petitioners herein are alleged to have abused the Defacto complainant using his caste name. Therefore, the Defacto complainant had preferred complaint with the Inspector of Police, Protection of Civil Rights, Pondicherry and based on which, the case has been registered and on investigation, they had laid the final report before the Court of the learned Chief Judicial Magistrate, Pondicherry. Further, the learned Counsel would submit that the Petitioner No.2 Chandra @ Selvi who is arrayed as A3 before the trial Court had absconded and NBW was issued against her which is still pending. A1, A2 and A4 who are the Petitioners 1, 3 and 4 had filed petition to condone their absence and the case is posted for further hearing on 19.04.2022."

3. Subsequently, the case was adjourned to 08.04.2022 and posted under the caption "for dismissal." On 08.04.2022, the Counsel representing the Counsel on record for the first Petitioner submitted that one of the Counsel was appointed as Additional Public Prosecutor, but he was unable to state, who was appointed as Additional Public Prosecutor. The other three Counsels are also not present in the Court on 08.04.2022. The Counsel representing the previous Counsel on record further submitted that Mr.R.C.Paul Kanagaraj, will be filing vakalat/memo of appearance and sought time to proceed with the arguments. Therefore, the case was adjourned to 26.04.2022.

4. Today, when the case came up for hearing, the learned Counsel submitted that their names had not been printed in the cause-list. On query by this Court to the learned Counsel representing the Counsel on record for Petitioners submitted that change of vakalat is yet to be filed.

5. From the records, it is seen that the Petitioners are Accused Nos.1 to 4. As per the submission of the learned Public Prosecutor (Puducherry), this case arises out of the offence under Section SC/ST (Prevention and Atrocities) Act and this petition had been filed by the Accused Nos.1 to 4 to quash the proceedings in C.C.No.63 of 2018.



6. At the stage of admission, an order of interim stay was granted, thereby preventing the learned Chief Judicial Magistrate, Puducherry from proceeding with the trial of the case. As per the submission of the learned Public Prosecutor (Puducherry), second Petitioner herein/third Accused is absconding and Non-Bailable Warrant had been issued by the Trial Court against her. In the light of the same, this petition lacks merit. Therefore, this Court directs the learned Chief Judicial Magistrate, Puducherry, to issue direction to the Deputy Superintendent of Police under the SC/ST (Prevention and Atrocities) Act, concerned to secure the second Petitioner/third Accused and produce her before the learned Chief Judicial Magistrate, Puducherry. When the second Petitioner/third Accused is produced on execution of Non-Bailable Warrant, the learned Chief Judicial Magistrate, Puducherry is directed to commit her to Prison till the trial is completed.

7. After obtaining order of interim stay, the Accused had wantonly delayed the trial before the trial Court, which is found to be against the principles laid down by the Hon'ble Supreme Court in the judgment in State of Haryana and Ors. Vs. Ch.Bhajan Lal and Ors, reported in 1992 Supp (1) SCC 335: 1992 SCC (Cri) 426. This is the glaring example, where the Court should not exercise the extraordinary power under Section 482 of Cr.P.C.

8. Under those circumstances, this Court does not find any merit in this petition. Accordingly, this Criminal Original Petition is dismissed with a direction to the learned Chief Judicial Magistrate, Pondicherry to proceed with the trial and dispose of the case. Consequently, connected Miscellaneous Petition is also closed.

Sd/-

Assistant Registrar(CS VII)

//True Copy//

Sub Assistant Registrar

dna
To

1.The Chief Judicial Magistrate,Pondicherry.

2.The Inspector of Police
Protection of Civil Right Cell (PCR) Police Station
Puducherry.

3.The Public Prosecutor,High Court, Madras.

CrI.O.P.No.4964 of 2019
and
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SR(CO)
A.SK(27/05/2022)