



WEB COPY



CrI.O.P.No.3080 of 2022

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 25.07.2023

CORAM

THE HONOURABLE MR. JUSTICE N. ANAND VENKATESH

CrI.O.P No.3080 of 2022

and

CrI.M.P.Nos.1380 of 2022

1.M/s.Niharika Hospital,
Registration No.PNA/2326/2003
Under PCFNDT Act,
Registration No.324, Cuddalore Main Road,
Vazhappady, Salem District.

2.M.Selvamba

...Petitioners

vs.

State rep by
District Appropriate Authority of Pre-Conception and
Pre-Natal Diagnostic (Prohibition of Sex Selection) Act, 1994,
Dr.Rathika,
Senior Civil Surgeon and Medical Officer,
Government Taluk Hospital,
Sub District, Vazhappady.
(C.C.No.88 of 2020)

...Respondents



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PRAYER:

Criminal Original Petition filed under Section 482 of the Code of Criminal Procedure, to call for the records in C.C.No.88 of 2020 on the file of the learned Judicial Magistrate cum Munsif court, Vazhappady, Salem and quash the same.

For Petitioner : Mr.V.Karthikeyan, for Mr.S.Joel

For Respondents : Mr.A.Damodaran
Additional Public Prosecutor

ORDER

This Criminal Original Petition has been filed challenging the proceedings initiated by the respondent against the petitioner in C.C.No.88 of 2020 on the file of the learned Judicial Magistrate cum Munsif court, Vazhappady, Salem.

2. The grounds raised by the counsel for the petitioners are all factual in nature and it requires appreciation of evidence and this Court cannot decide the same in exercise of its jurisdiction under Section 482 of Criminal Procedure Code. It is left open to the petitioner to raise all the grounds before the Court below and the same shall be considered on its own merits and in accordance with law. This Court is not inclined to interfere with the proceedings pending before the Court below.



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WEB COP3. The learned counsel for the petitioners requested this Court to dispense with the presence of the second petitioner. Taking into consideration, the facts and circumstances of the case, the presence of the second petitioner is dispensed with and she shall appear before the Court below as and when required by the Court below and during all the other times, she shall be permitted to be represented by the counsel. The counsel, who represent the petitioners, shall cross-examine the witness on the same day, they are examined in Chief. The second petitioner shall be present before the Court below at the time of questioning under Section 313 of the Code of Criminal Procedure and at the time of final judgement.

4. Accordingly, this Criminal Original Petition is disposed of with a direction to the Court below to complete the proceedings in CC No.88 of 2020 within a period of six months from the date of receipt of a copy of this order. The trial shall be conducted on a day to day basis in accordance with the guidelines given by Hon'ble Supreme Court reported in ***Vinod Kumar Vs State of Punjab [2015 (1) MLJ (Crl) 288 SC]***. If the petitioner adopts any dilatory tactics, it is open to the trial Court to insist upon the presence of the petitioner and remand him to custody as per the judgment of the Hon'ble



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Supreme Court in ***STATE OF UTTAR PRADESH VS. SHAMBHU NATH***

SINGH (JT 2001 (4) SC 3191). Consequently, connected miscellaneous petition is also closed.

25.07.2023

Index : Yes/No

Internet : Yes/No

Speaking Order/Non-Speaking Order
nsa

To

1.The Judicial Magistrate cum Munsif Court,
Vazhappady, Salem

2. The Public Prosecutor,
Madras High Court,
Chennai 600 104..



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N. ANAND VENKATESH, J.

nsa

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