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Crl. O.P. No.26207 of 2023

IN THE HIGH COURT OF JUDICATURE AT MADRAS

Dated : 30.11.2023

CORAM :

THE HONOURABLE Dr. JUSTICE **G.JAYACHANDRAN**

Crl.O.P No.26207 of 2023
and Crl.M.P. No.18208 of 2023

C.Rajkumar

.. Petitioner

Vs.

1.The State represented by
The Inspector of Police,
Sendamangalam Police Station,
Namakkal.
(Ref: Crime No.670 of 2021)

2.Sakthivel

..Respondents

PRAYER : Criminal Original Petition has been filed under Section 482 of Cr.P.C, to Set aside the Suo Moto order dated 16.02.2023 in CC.120/2022 on the file of the Judicial Magistrate Sendamangalam for offence under Section 294(b), 448, 506(ii), 326 IPC & Section 4 of Tamil Nadu Prohibition of Harassment of Women Act, 2002.

For Petitioner	: Mr.P.N.Vignesh
For Respondent 1	: Mr.Leonard Arul Joseph Selvam, Government Advocate (Crl.Side)



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ORDER

The petitioner herein is an accused in C.C. No.120 of 2022 on the file of the learned Judicial Magistrate No.I, Sendhamangalam. Based on the complaint a case was registered, filed in Crime No.670 of 2021, investigated by the respondent police for offence under Sections 294(b), 324, 448, 506(2) IPC and Section 4 of Tamil Nadu Prohibition of Women Harassment Act, and culminated into filing of final report for offences under Sections 294(b), 448, 326 & 506(ii) IPC and Section 4 of Women Harassment Act.

2.After commencement of the trial and examination of P.W.1 and P.W.2, the learned Magistrate had found that certain facts spoken by these witnesses requires further investigation and therefore suo moto ordered further investigation vide order dated 20.09.2022.

3. Pursuant to the said order, further investigation was conducted and additional final report filed by the Inspector of Police on 16.02.2023. After going through the additional final report, the learned Judicial Magistrate has thought fit that the case is to be tried by the Court of Sessions hence, transferred the case to the Court of Sessions. The above



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procedure is now been challenged by the accused in this case on the ground that the Court below has primarily by ordering further investigation and thereafter, receiving the final report and transferring the case to the Court of Sessions.

4. Contending that there is a procedural irregularity in ordering the further investigation and transferred the case to the Court of Sessions, on receipt of the final report, the learned counsel for the petitioner submitted that the procedure adopted by the trial Court is contrary to the dictum laid by the Hon'ble Supreme Court in the case of ***Bikash Ranj Rout Vs. State***, dealt with the procedures contemplated under Sections 167 (2), 173, 227 & 228 of Cr.P.C.

5. After hearing the learned counsel for the petitioner at length and response of the learned Government Advocate (Crl.Side), this Court on considering the material placed, though it is contended by the learned counsel for the petitioner that it is a family dispute, highly exaggerated for the purpose of securing the property, it appears that the trial Court after examination of P.W.1 and P.W.2 had found that, the case requires further investigation and ordered further investigation in exercise of



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Power under Section 173(2) of Cr.P.C., On receipt of the additional report, the trial Court found that offences exclusively tried by the Court of Sessions is made out from the material submitted by the Investigation officer in the further final report had rightly committed to the Court of Sessions, hence, there cannot be any infirmity or illegality in the said process.

6. The learned Magistrate of the Court which tries the offences can at any stage if, is of the opinion that the case requires further investigation, thus in exercise of power under Section 173(2) of Cr.P.C shall order further investigation. The hyper-technical narrow interpretation of the statute shall not cause injury to the justice. Therefore, this petition is ***dismissed*** as devoid of merits. Consequently, connected Miscellaneous Petition also dismissed.

30.11.2023

Internet : Yes/No

Index: Yes/No

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To

1. The Judicial Magistrate,
Sendamangalam.
2. The Inspector of Police,
Sendamangalam Police Station,
Namakkal.
3. The Public Prosecutor,
Madras High Court,
Madras.



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Dr.G.JAYACHANDRAN, J.

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