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BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

Dated: 23/02/2023

CORAM

The Hon'ble Mr.Justice **G.ILANGOVAN**

Cr1.OP(MD)No.6591 of 2019

and

Cr1.MP(MD)Nos.4385 and 4386 of 2019

1.Kaja Mydeen Badhausha
2.Abdul Ali
3.Fakir Mohamed Lebbai
4.Asanar
5.Syed Ali Fathima : Petitioners/A4 to A8

Vs.

1.State rep. through
The Sub Inspector of Police,
All Women Police Station,
Palayamkottai,
Thirunelveli District,
(In Crime No.11 of 2018) : R1/Complainant
2.Syed Ali Fatima
W/o.Shiek Mohamed : R2/De-facto Complainant

Prayer:- This Criminal Original Petition has been filed under section 482 of the Criminal Procedure Code, to call for the records pertaining to the impugned charge Sheet in Spl.C.No.174 of 2018 on the file of the Mahila Court, Tirunelveli and quash the same as illegal as against these petitioners and pass such further orders.



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For Petitioners : Mr.S.A.S.Alaudeen
For 1st Respondent : Mr.P.Nambiselvan
Additional Public Prosecutor
For 2nd Respondent : Mr.K.Rahul Priyan

O R D E R

This criminal original petition has been filed seeking quashment of the case in Spl.C No.174 of 2018 on the file of Mahila Court, Tirunelveli.

2.The case of the prosecution in brief:-

On 10/02/2017 at about 03.00 pm, the accused namely Sintha Sathik entered into the house of the victim girl stating that he is loving her and committed penetrative sexual assault and also threatened her not to disclose the same to any one. Again the very same act, he committed several times. She was taken to the hospital for medical examination on suspicion. At that time, she was found pregnant. On 05/12/2017, a female child was born and a wrong information was given to the hospital authorities regarding the parents name. The child was handed over to one Syed Ali Fathima. The above said birth of the child was known to the Social Welfare department. A wrong information was given to the Social



Welfare Officer that no such occurrence took place. It was also brought to the notice of the police as well as the Jamath. The complainant and others went to Sintha Sathik's house and at that time, the parents of Sintha Sathik and his relatives insulted them and refused to arrange marriage between the victim and the above said Sintha Sathik. She was also criminally intimidated. Over the above said occurrence, a case was registered in Crime No.11 of 2018 for the offences punishable under sections 294(b), 452, 417, 506(ii) and 109 IPC and section 6 of POCSO Act, 2012. After completing the formalities of investigation, charge sheet has been filed and now it has been taken cognizance in Spl.C No.174 2018 by the Mahila Court, Trichy.

3. Seeking quashment of the above said criminal proceedings, A4 to A8 filed this petition on the ground that there were close relatives of the de-facto complainant and they helped the de-facto complainant during the admission and delivery of the child and only at the instance made by the de-facto complainant, wrong information was given to the hospital authorities; There was a delay in preferring the complaint and no materials



have been collected to connect these petitioners into the offences.

4. Heard both sides.

5. The learned counsel appearing for the petitioners would submit that absolutely, these petitioners are not involved in the commission of the sexual assault by Sintha Sathik, who is the juvenile accused and only at the request made by the de-facto complainant, in order to protect the interest of the victim girl, they helped her during delivery and gave a wrong information to the hospital authorities without any criminal intention.

6. Per contra, the learned Additional Public Prosecutor appearing for the 1st respondent would submit that sufficient materials have been collected during the course of investigation and these petitioners also involved into the offences and there is no ground for quashment.



7.A joint compromise memo was filed by these petitioner and the de-facto complainant stating that they resolved their dispute and the de-facto complainant has no objection to quash the criminal proceedings against these petitioners.

8.Since serious allegations have been made against these petitioners, this court did not permit the parties to make a compromise and discharge them from the criminal prosecution and the compromise reached between the parties cannot be taken into account, since the allegation of falsification of records and giving wrong information have been alleged.

9.Only a short point arises for consideration is whether without any criminal intention, these petitioners helped the de-facto complainant/the victim. According to the petitioners, they helped the victim, at the time of delivery, in order to protect her from the society. But this is the factual aspect, which cannot be taken into account at this stage.



10.The offence of such nature should not be allowed and permitted to make the compromise. This is not the fittest case to quash the proceedings even on the basis of the compromise. Even on the basis of the factual aspect. So, I find no reason to quash the proceedings.

11.In the result, this criminal original petition is **dismissed**. Consequently, connected Miscellaneous Petitions are closed.

23/02/2023

Index:Yes/No
Internet:Yes/No
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To,

- 1.The Mahila Court,
Tirnelveli.
- 2.The Sub Inspector of Police,
All Women Police Station,
Palayamkottai,
Thiruneveli District.
- 3.The Additional Public Prosecutor,
Madurai Bench of Madras High Court,
Madurai.



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G. ILANGO VAN, J

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Cr1.OP(MD) No. 6591 of 2019

23/02/2023



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