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BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

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Dated: 19/06/2023

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

Crl.OP(MD)No.10447 of 2023

Nanthakumar : Petitioner/Sole Accused

Vs.

1.The Deputy Superintendent of Police,
Office of the Deputy Superintendent of Police,
Pudukkottai District.

2.The Inspector of Police,
All Women Police Station,
Alangudi,
Pudukkottai District.
(Crime No.2 of 2023)

: R1 and R2/Complainants

3.Vinothini : R3/De-facto Complainant/
Victim

PRAYER:- Criminal Original Petition has been filed under section 482 of the Criminal Procedure Code, to accept the surrender of the petitioner before the Special Court for SC/ST (Prevention of Atrocities) Act i.e., the 1st Additional District and Sessions Judge at Pudukkottai, in connection with Crime No.2 of 2023 on the file of the 2nd respondent police and to consider the bail application filed by the petitioner on the same day and pass such other orders.

For Petitioner : Mr.A.Daniel Leo

For R1 and R2 : Mr.B.Nambiselvan
Additional Public Prosecutor



Under compulsion, she was subjected to sexual intercourse. Later, he tried to avoid her. After 15 days, she went to Nanthakumar's house and enquired. At that time, she was abused in filthy language by calling her caste name. On the basis of the complaint given by the de-facto complainant, a case in Crime No.2 of 2023 was registered for the offences under sections 294(b), 417 and 376(i) IPC and section 3(1)(r), 3(1)(s), 3(1)(w)(i) and 3(2)(v) of SC/ST (Prevention of Atrocities) Act, 1989.

3.Now seeking direction to consider the bail application, on the date of surrender itself, this petition came to be filed.

4.Heard both sides.

5.No doubt that merits of the case beyond the scope of the direction under section 482 Cr.P.C. But however, considering the seriousness of the allegation that has been made against the petitioner, unless strong case has been made out by the petitioner for exercising the jurisdiction under section 482 Cr.P.C, it is not



available to the petitioner. Section 482 Cr.P.C can be exercised, only when there is abuse of the process of court or to render justice to the parties. Here, the allegations are serious in nature.

6. The learned Additional Public Prosecutor would submit that direction should not be issued and the petitioner must be subjected to custodial interrogation also and since, it is a case of rape, medical examination of the victim as well as the accused must be undertaken.

7.Per contra, the learned counsel appearing for the petitioner would submit that both are major and even as per the allegation made in the FIR, it is consensual in nature.

8. Here, the merit cannot be considered and discussed by this court. It is for the trial court to consider the bail application at the appropriate time. So, the petitioner either has to surrender to the respondent or before the concerned Special Court and seek regular bail.

9.Perusal of the CD file shows that only the



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victim was subjected to medical examination. Since the petitioner was not subjected to interrogation, it was not undertaken so far. So, I am of considered view that this is not a fittest case to exercise the jurisdiction under section 482 Cr.P.C, to give a direction to the Special Court to consider the bail application on the date of surrender itself.

10.In the result, this criminal original petition is **dismissed**.

19/06/2023

Index:Yes/No
Internet:Yes/No

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To,



1. The Deputy Superintendent of Police,
Office of the Deputy Superintendent of Police,
Pudukkottai District.

2. The Inspector of Police,
All Women Police Station,
Alangudi,
Pudukkottai District.

3. The Additional Public Prosecutor,
Madurai Bench of Madras High Court,
Madurai.

G.ILANGOVAN, J



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