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Crl.O.P(MD).No.18796 of 20



BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

DATED: 17.07.2023

CORAM:

THE HONOURABLE MR. JUSTICE P. DHANABAL

Crl.O.P(MD).No.18796 of 2019

and

Crl.M.P.(MD)Nos.11033 and 11035 of 2019

Sofia Sornajini

...Petitioner

Vs

1.State through
The Deputy Superintendent of Police,
Thoothukudi City.
(Crime No.21 of 2013)

2.The Inspector of Police,
South Police Station,
Thoothukudi.
(Crime No.21 of 2013)

3.Rathimala

...Respondents

PRAYER: Criminal Original Petition filed under Section 482 of the Code of Criminal Procedure, praying this Court to call for the records pertaining to the criminal proceedings in S.C.No.33 of 2020 on the file of the Special Court for trial of Cases under the Scheduled Castes and the Scheduled Tribes (Prevention of Atrocities) Act, 1989, Thoothukudi and quash the same.

For Petitioner	: Mr.B.N.Raja Mohamed
For Respondents 1 and 2	: Mr.M.Sakthi Kumar
	Government Advocate (Crl. Side)
For 3 rd Respondent	: Mr.R.Sakthivel

**ORDER**

This petition is filed to quash the charge sheet in S.C.No.33 of 2020 on the file of the Special Court for trial of Cases under the Scheduled Castes and the Scheduled Tribes (Prevention of Atrocities) Act, 1989, Thoothukudi

2.According to the petitioner, the third respondent herein made a false complaint against the petitioner before the second respondent and based on the false complaint, the first respondent registered a FIR in Crime No.21 of 2013 under Sections 341 and 420 of IPC and Section 3(1)(x) of Scheduled Caste and Scheduled Tribes (Prevention of Atrocities) Act. After investigation, the respondent Police filed a final report as against the petitioner and another. During the pendency of the case, A2 died.

3.The case of prosecution is that A1 had stolen the ATM card of the third respondent issued by the Indian Overseas bank, Chidambaram Nagar Branch, Thoothukudi, for her savings bank account No.287 and swindled a sum of Rs.1,38,000/- from the bank account between 06.12.2010 and 26.01.2011. Further it is alleged that inspite of admitting the guilt, the petitioner and her husband A2 eluded from repaying the money and the complaint was lodged before the Inspector of Police, South Police Station, Thoothukudi on 16.08.2011, wherein it is alleged that the petitioner and her husband A2 abused the third respondent in the name of caste in a public place.



Thereafter, the first respondent has filed a final report on 02.12.2013 before the learned Judicial Magistrate No.I, Thoothukudi for the offences under Sections 420, 341 of IPC and Section 3(1)(x) of SC/ST (POA) Act @ Section 341 of IPC and 3(1)(x) of SC/ST (POA) Act. The third respondent in another proceedings in C.C.No.736 of 2017 on the file of the learned Judicial Magistrate No.III, Thoothukudi in which she was the defacto complainant, gave a complaint against the petitioners and others under Sections 493, 494, 506(ii) and 496 of IPC. In the above said proceedings, all the accused were acquitted by the learned Judicial Magistrate No.III, Thoothukudi vide judgment dated 25.10.2018.

4.The learned counsel appearing for the petitioner would contend that the petitioner has not committed any offence as alleged in the FIR and he has been falsely implicated in this case and there is a delay of eight months in lodging the FIR. Out of vengeance, this false case has been foisted against him. Even as per the complaint, the offence under Section 3(1)(x) of SC/ST (POA) Act would not rise, since the public place has not been mentioned. Further the learned counsel appearing for the petitioner argued that in the earlier proceedings in C.C.No.736 of 2017, the petitioner has given a deposition. Hence, the defacto complainant herself admitted that the false case is given by her regarding that incident. Therefore, S.C.No.33 of 2020 is liable to be quashed.



5.The learned counsel for the third respondent would contend that based on the complaint given by the defacto complainant, the respondent police have registered a FIR and the police have investigated the case elaborately and since prima facie materials are available to constitute the offence, the first respondent has filed the final report. The Court has taken cognizance and taken on file as S.C.No.33 of 2020. At this stage, the petitioner has to face the trial and this Court cannot invoke inherent power, since there is no prima facie grounds to quash the charge sheet and this petition is liable to be dismissed.

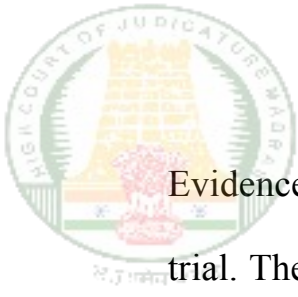
6.The learned counsel appearing for the respondents 1 and 2 would contend that the third respondent has given a complaint alleging that the petitioners and others abused the third respondent in her caste name and swindled the money by taking the ATM card of her savings bank account and swindled a sum of Rs.1,38,000/- and thereby she lodged the complaint before the first respondent police and the first respondent police registered the FIR in Crime No.21 of 2013 and the first respondent investigated the case and filed a final report. Thereafter the Special Court has taken cognizance and taken on file as S.C.No.33 of 2020 for the offence under Sections 420, 341 of IPC and Section 3(1)(x) of SC/ST (POA) Act @ Section 341 of IPC and 3(1)(x) of SC/ST (POA) Act. The petitioner has to approach the trial Court. Hence, this petition is liable to be dismissed.



7. Heard both side counsels and perused the materials available on record.

8. The main contention of the petitioner is that there is a delay of eight months lodging the complaint and out of personal vengeance, this case has been foisted. The petitioner and the third respondent are being advocates, who practiced earlier under one Senior Advocate. There is misunderstanding between them and therefore, in order to take vengeance, this false complaint has been foisted, but the above said fact has to be established by the trial Court by conducting trial. Already the respondent police have filed the final report based on elaborate investigation. This Court at this stage cannot invoke the power under Section 482 of Cr.P.C., since the offences are grave in nature. Further the Hon'ble Supreme Court in the case of **Neeharika Infrastructure Private Limited** framed guidelines and as per the said guidelines, this Court declined quash the present case and the petitioner has to contest the case in trial Court and all the grounds taken by the petitioner are matter of trial.

9. The learned counsel appearing for the petitioner contended that the deposition given in the earlier proceedings and as per the deposition, she admitted the false case given by her. As far the deposition rendered in earlier proceedings is concerned, it has to be fullfil the conditions of Section 33 of



Evidence Act, now this Court cannot look into the same, since it is matter of trial. The above said documents have to be looked into at the time of trial by the trial Court and this Court at this stage cannot discuss about the reading of the said deposition.

10.The learned counsel appearing for the petitioner has relied upon the following judgments:-

(i)Rajiv Thapar and Others v. Madan Lal Kapoor reported in (2013) 3 Supreme Court Cases 330

(ii)Harshendra Kumar v. Rebatilata Koley and others reported in (2011) 3 Supreme Court Cases 351

(iii)Victor Paul and another v. State reported in (2002) MLJ (Crl.) 202

(iv)Jeyaramaraja and others v. Inspector of Police in Crl.A.No.295 of 1999.

11. The judgments relied upon by the learned counsel appearing for the petitioner will not be applicable to the present facts and circumstances of the case and the facts in this case are distinguishable from the cases relied upon by the petitioner. As discussed supra, this Court has no warrant to invoke the power under Section 482 of Cr.P.C. Hence, this Criminal Original Petition is liable to be dismissed.



12.At his juncture, the learned counsel appearing for the petitioner would further represent before this Court that the personal appearance of the petitioner may be dispensed with and also a direction may be given to the learned trial Judge to expedite the trial proceedings and complete the proceedings within a period of stipulated time.

13.As far as dispensing the personal appearance of the petitioner is concerned, the trial Court has to decide depending upon facts and circumstances of the case. As far as speedy trial is concerned, as the case is pending from the year 2016, it is appropriate to direct the learned trial Judge to expedite the trial and complete the trial proceedings as early as possible preferably within a period of six months from the date of receipt of a copy of this order.

14.With the above direction, this Criminal Original Petition is disposed of. Consequently, connected miscellaneous petitions are closed.

17.07.2023

NCC : Yes/No
Internet : Yes/No
Index : Yes/No
Mrn



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P. DHANABAL,J.

Mrn

To

- 1.The Judge, Special Court for trial of Cases
under the Scheduled Castes and the Scheduled Tribes
(Prevention of Atrocities) Act, 1989, Thoothukudi.
- 2.The Deputy Superintendent of Police,
Thoothukudi City.
- 3.The Inspector of Police,
South Police Station,
Thoothukudi.
- 4.The Additional Public Prosecutor,
Madurai Bench of Madras High Court, Madurai.

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