



Crl.O.P.(MD) No.23559 of 2023

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BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

DATED : 28.12.2023

CORAM

THE HON'BLE MR.JUSTICE R.SAKTHIVEL

Crl.O.P.(MD) No.23559 of 2023

1.M.Manikandan @ Mani

2.S.Lakshmi @ Mahalakshmi ... Petitioners /Accused Nos.2 & 3

Vs

1.The Deputy Superintendent of Police,
Nagercoil,
Kanyakumari District.

2.The State represented by its
Inspector of Police,
Kottar Police Station,
Kanyakumari District,
(Crime No.365 of 2023)

... Respondents 1 & 2

3.Pushpam ... 3rd Respondent / Defacto complainant

PRAYER: Criminal Original Petition filed under Section 482 of the Criminal Procedure Code, 1973 (Act No.2 of 1974) praying to direct the learned II Additional District Judge (PCR Court), Tirunelveli to accept the surrender of the petitioners and consider their bail application on the same day on merits pertaining to Crime No.365 of 2023 on the file of the second respondent Police.



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For Petitioners : Mr.S.Suresh Kumar

For R-1 & R-2 : Mr.M.Veeranthiran
Government Advocate (Criminal Side)

ORDER

This Criminal Original Petition has been filed by the petitioners / Accused Nos.2 and 3 on 26.12.2023 under Section 482 of the Criminal Procedure Code, 1973 (Act No.2 of 1974) praying to direct the learned II Additional District Judge (PCR Court), Tirunelveli, to accept the surrender of the petitioners and consider their bail application on the same day on merits in Crime No.365 of 2023 for the offence punishable under Sections 294 (b) and 323 of the Indian Penal Code, 1860 (Act No.45 of 1860); Sections 3 (1) (r), 3 (1) (s) and 3 (2) (va) of 'The Schedule Castes and Schedule Tribes (Prevention of Atrocities Act), 1989 (Act No.33 of 1989)' (henceforth 'SC and ST (POA) Act, 1989'); and Section 4 of the Tamil Nadu Prohibition of Harassment of Women Act, 2002, (Act No.44 of 1998), on the file of the respondent Police.

2. The case of the prosecution is that on 20.12.2023 at about 11.00 a.m., the *defacto* complainant / third respondent herein went to fetch water from the street tap; that at that time, the petitioners and the



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other accused persons did not allow the *defacto* complainant to drink the water; and that they abused the *defacto* complainant employing her communal name. Hence, the case.

3. The learned counsel for the petitioners submitted that the petitioners are innocent persons and they have been falsely roped in this case. Accordingly, he prayed to allow this Criminal Original Petition.

4. The learned Government Advocate (Criminal Side) appearing for the respondent-Police submitted that the injured was admitted in the Hospital on 20.12.2023 and discharged from the Hospital on 23.12.2023. He further submitted that there is no previous case pending against the petitioners. He prayed to dismiss this Criminal Original Petition.

5. Heard on both sides. This Court has perused the records.

6. In view of the amendments made in the SC and ST (POA) Act, 1989, this Court is of the view that the directions that would usually be issued by this Court cannot be issued routinely in all cases. Considering the facts and circumstances of the case, this Court is inclined to pass the following order:



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(i) The petitioners shall surrender before the learned II Additional District Judge (PCR Court), Tirunelveli, within a period of fifteen days from today; and

(ii) On such surrender along with notice served to the *defacto* complainant, the concerned Judge shall consider the bail application filed by the petitioners and pass order on merits on the same day of their surrender, after hearing the *defacto* complainant in compliance with Section 15A(3) of the SC and ST (POA) Act, 1989.

7. Accordingly, this Criminal Original Petition is allowed with the above directions.

28.12.2023

TSG

Note:-

- 1. Registry is directed to forthwith upload this order in the official website of this Court.**
- 2. All concerned to act on this order being uploaded in official website of this Court without insisting on certified hard copies. To be noted, this order when uploaded in official website of this Court will be watermarked and will also have a QR code.**



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TO

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- 1.The II Additional District Judge (PCR Court),
Tirunelveli.
- 2.The Deputy Superintendent of Police,
Nagercoil,
Kanyakumari District.
- 3.The Inspector of Police,
Kottar Police Station,
Kanyakumari District.
- 4.The Additional Public Prosecutor,
Madurai Bench of Madras High Court, Madurai.



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R.SAKTHIVEL, J.

TSG

Order
in
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Date : 28.12.2023