



Crl.O.P.No.8165 of 2024
& Crl.M.P.No.5950 of 2024

IN THE HIGH COURT OF JUDICATURE AT MADRAS

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Reserved on : 24.04.2024

Pronounced on: 29.04.2024

Coram:

THE HONOURABLE Dr. JUSTICE G.JAYACHANDRAN

Crl.O.P.No.8165 of 2024
& Crl.M.P.No.5950 of 2024

K.Durga.

.... Petitioner

/versus/

State by:

1. The Superintendent of Police,
Tiruvannamalai & District.
2. Mr.Ravichandran.
Deputy Superintendent of Police,
Arani Sub-Division,
Arani, Tiruvannamalai District.
3. The Inspector of Police,
AWPS Arani Police Station,
Tiruvannamalai District.

4. Akash.

.... Respondents

Prayer:- Criminal Original Petition has been filed under Section 482 of Cr.P.C., to direct the 1st respondent to nominate an Officer not below the rank of a Deputy Superintendent of Police to conduct a fresh investigation of the case in a free and fair manner, in Crime No.12 of 2023, now pending as Spl.S.C.No.51 of 2023 on the file of the Special Court constituted under SC and ST (PoA) Act,



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Tiruvannamalai and file a fresh final report as per law and within the time frame fixed by this Hon'ble Court.

For Petitioner : Mr.S.Sathia Chandran

For R1 to R3 : Mr.S.Udaya Kumar,
Government Advocate (Crl.Side)

ORDER

The petitioner herein is the defacto complainant in Crime No.12 of 2023 on the file of All Women Police Station, Arani. She on 14/07/2023 lodged a complaint against the 4th respondent, alleging that she belongs to the Arunthathiyar community, which is a Schedule Caste, the 4th respondent belongs to the Vanniyar community, which falls under Most Backward caste. She and the 4th respondent fell in love and the 4th respondent promised to marry her after the marriage of his brother. By giving promise that he will marry her and by deceit got her consent for sexual intercourse and had intercourse with her on several occasions. When she got conceived, the 4th respondent made her to terminate the pregnancy. When she came to know that the 4th respondent had similar relationship with other girls and questioned him, he refused to marry her and threatened her with dire consequences.



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2. The complaint registered for offences under Sections 417, 376(2)(n), 312, 506(2) I.P.C r/w Section 3(2)(v) of SC/ST (PoA) Act. The investigation was taken up by Deputy Superintendent of Police (2nd respondent). On completion of investigation, charges were altered to Sections 417, 376(2)(n), 312, 506(2) I.P.C r/w Sections 3(2)(v), Section 3(1)(r) and 3(1) (w)(i) of SC/ST (PoA) Act. Final report filed and same taken cognizance in Spl.S.C.No.51 of 2023 by the Special Court for offences under SC/ST Act, Thiruvannamalai.

3. The petitioner, after collecting the final report and the documents relied by the prosecution through her counsel found that the investigation has not been done properly. Her statement was not recorded by the investigating officer. The statements of important witnesses were not obtained. The investigation not done by the Deputy Superintendent of Police as contemplated under the Act. Therefore, she made a representation to the Superintendent of Police (the first respondent), pointing out the slipshod investigation conducted by the second respondent and to take necessary action to transfer the investigation to CBCID for fresh investigation and also to take action against the 2nd respondent under Section 4 of the SC/ST Act for his dereliction of duty. Since the first respondent has not acted upon her representation dated



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27/01/2024, the instant petition is filed under Section 482 of the Code of Criminal Procedure for necessary direction.

4. The Learned Government Advocate (Crl.Side) for the respondent produced the CD file and submitted that the investigation done in accordance with law by the Deputy Superintendent of Police and there is no justification in the allegation that the investigation was done by an Officer below the rank of DSP. Also, there is no reason to suspect that the investigation was done in slipshod manner. The petitioner/defacto complainant is an adult and a well-educated person. According to her complaint and statement to the Magistrate which was recorded within 15 days from the date of registration of the complaint, she admitted that she had consented for intercourse, believing the promise of marriage given by the accused. The investigation based on her statements given to the police under Section 161 Cr.P.C. as well as to the Judicial Magistrate under Section 164 Cr.P.C., duly taken note and proceeded. Hence, there is no necessity for further investigation or to take action against the Investigating Officer under Section 4 of the SC/ST Act.

5. The basis of the prosecution against the 4th respondent is the



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complaint, Section 161 Cr.P.C., statement of the victim girl and Section 164 of Cr.P.C., statement given by her to the Judicial Magistrate. Certain new facts which does not form part of these three documents are found in the representation given by the petitioner to the first respondent on 27/01/2024. This Court, on reading the Section 164 of Cr.P.C., statement of the defacto complainant found that the complainant had named certain persons who know about the affair between her and the accused, but those persons were not shown as witnesses in the final report. As pointed out by the Learned Counsel for the petitioner, these witnesses are necessary witnesses for the prosecution to prove the allegations made against the accused. The CD file does not disclose whether those persons were examined by the Investigating Officer or not. If yes, why they were not included as witnesses for prosecution.

6. The first respondent is therefore directed to look into the case diary and statement of the petitioner herein and take necessary action within a period of three weeks from the date of receipt of copy of this order. If there is any need for further investigation on the facts found in Section 164 of Cr.P.C., statement of the complainant necessary action shall be taken for further investigation by a different Investigating Officer not below the rank of Deputy



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Superintendent of Police and he shall file additional report within a period of two months, if any. There shall be a direction to the trial Court to stop the proceedings in Spl.S.C.No.51/2023 for a period of three months, from today and proceed thereafter.

7. With the above observation, this Criminal Original Petition is disposed of. Consequently, connected Miscellaneous Petition is closed.

29.04.2024

Index :Yes/No.

Internet :Yes/No.

Speaking Order/Non-speaking order
bsm

Copy to:-

1. The Superintendent of Police,
Tiruvannamalai & District.

2. Mr.Ravichandran.
Deputy Superintendent of Police,
Arani Sub-Division,
Arani, Tiruvannamalai District.

3. The Inspector of Police,
AWPS Arani Police Station,
Tiruvannamalai District.

4. The Public Prosecutor, High Court, Madras.

DR.G.JAYACHANDRAN, J.



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Pre-delivery order made in
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