



CrI.O.P.No.10852 of 2024

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 03.06.2024

CORAM

THE HONOURABLE DR.JUSTICE G.JAYACHANDRAN

CrI.O.P.No.10852 of 2024
& CrI.M.P.No.7415 of 2024

Mrs.Sandhiya

... Petitioner/A4

/versus/

1. State Rep. by,

The Inspector of Police,
AWPS Thiruvallur Police Station,
Thiruvallur District.
SC.No.65 of 2024.

... 1st Respondent/Complainant

2. Angel Clara

... 2nd Respondent/Defacto complainant

Prayer: Criminal Original Petition is filed under Section 482 of Cr.P.C., to call for the records in S.C.No.65 of 2024 pending trial on the file of the Additional Mahila Court, Thiruvallur and quash the same against the petitioner.

For Petitioner : Mr.M.Jaikumar

For R1 : Mr.S.Udaya Kumar
Government Advocate (CrI.Side)



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ORDER

The petitioner is the 4th accused in a case under trial for offence under Section 294(b), 323, 376(1), 376(2)(n), 417, 451, 315, 506(2), 511, 313 of I.P.C and Section 4 of Tamil Nadu Prohibition of Harassment of Women Act, 2002.

2. The petitioner is the sister of the 1st accused Edwin who according to the complainant had sexual intercourse with her and impregnated her and made a false promise to marry her. The overt act attributed against this petitioner is that when the defacto complainant questioned 1st accused for cheating her, the petitioner and other accuseds who are none other than father and mother of the 1st accused jointly together with the 1st accused attacked her and caused injury.

3. The Learned Counsel for the petitioner submitted that there is no independent witness to speak about the incident and furthermore, the complaint regarding the incident which took place on 02.01.2022 was only registered on 20.01.2022 and therefore, the case against the 4th respondent has to be quashed.



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4. Certain portion of the Section 161 Cr.P.C., statement of witnesses was also read before this Court to buttress the argument. However, the Learned Government Advocate (CrI.Side) for the 1st respondent submitted that a clear overt act been attributed against this petitioner for threatening the defacto complainant with dire consequence and also physically manhandled her. It is a matter for trial to establish whether adequate evidence for the said overt act is elicited by the prosecution or not, but not a case for quash.

5. This Court on considering the nature of the complaint holistically and the statement of witnesses concur with the submissions made by the Learned Government Advocate (CrI.Side). The accused 2 to 4 are the family members of the 1st accused. There is a specific allegation and material available indicates that the defacto complainant was subjected to sexual intercourse and she has also given birth to a female child fathered by the 1st accused. When the victim girl had questioned 1st accused and his family members, she was subjected to physical assault in the public road. The case has to be tried and Court has to come to a logical conclusion only after the examination of witnesses, no conclusion can be drawn based on the statements of the witnesses recorded by the police without subjecting the witnesses for cross examination.



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6. The Learned Government Advocate (CrI.Side) for the 1st

respondent states that the matter is posted for questioning the accused regarding charges. It is appropriate to direct the trial Court to complete the trial within a period five months, from the date of receipt of copy of this order.

7. The Learned Counsel for the petitioner states that the petitioner is presently residing in Andaman and therefore, her personal appearance has to be dispensed with whenever physical appearance is not required. This request can be made to the trial Court and if any such application is filed to dispense with, the personal appearance may be considered sympathetically and whenever the physical appearance of the petitioner is not required, same may be dispense with.

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

03.06.2024

Index : Yes/No.
Neutral Citation : Yes/No.
bsm



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Copy to

1. The Additional Mahila Court, Thiruvallur.
2. The Inspector of Police, AWPS Thiruvallur Police Station,
Thiruvallur District.
3. The Public Prosecutor, High Court of Madras, Chennai.



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Dr.G.JAYACHANDRAN,J.

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