



CrI.O.P.No.22304 of 2024

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 11.09.2024

CORAM

THE HONOURABLE DR.JUSTICE **G.JAYACHANDRAN**

CrI.O.P.No.22304 of 2024

Pappal

... Petitioner

Versus

1.The State Rep.By
The Deputy Superintendent of Police,
Sankari Police Station, Salem District.
Cr.No.436/2020.

2.Palanisamy Gounder
3.Sakthivel
4.Chinnathambi Gounder
5.Shanmugam
6.Vellingiri
7.Ramamoorthy
8.Duraisamy
9.Palaniammal
10.Sarojini
11.Moorthy
12.Palanisamy
13.Kandhasamy
14.Moorthy
15.Ammasai Gounder
16.Palanisamy
17.Abdul Rahman
18.Noor Mohamed
19.Senthil Arun
20.Shanmugam
21.Rajendran



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22.Suresh
23.Ponnusamy
24.Seetha Lakshmi
25.Sarasal
26.Rani
27.Chinna Kannal
28.Subramani
29.Udayakumar
30.Rangasamy
31.Vadivel
32.Palanisamy
33.Arumugam

... Respondents

Prayer: Criminal Original Petition is filed under Section 528 BNSS, pleaded to set aside the Return endorsement of docket order dated 15.07.2024 made in un-numbered CrI.M.P.No. of 2024 in Spl.S.C.No.6 of 2024 on the file of Sessions Judge, Special Court For Trial of Cases Under SC/ST (PoA) Act, Tiruppur and Direct the Learned Sessions Judge, Special Court For Trial Of Cases Under SC/ST(PoA) Act, Tiruppur.

For Petitioner : Mr.B.Mohan

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

ORDER

The petitioner herein has filed an application under Section 319 Cr.P.C., to add one Meenakshi as accused. In fact, the said Meenakshi was originally shown as accused [A36] by the respondent police while filing the final report. The said Meenakshi has filed discharge petition in



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CrI.O.P.No.19499/2019 and the same was allowed by this Court vide order dated 10.01.2023. Thus, the said Meenakshi been discharged from prosecution. While so, relying upon some additional documents and the material, the petitioner herein /defacto complainant has filed application under Section 319 Cr.P.C., to add said Meenakshi again as accused.

2. The Court below, after perusing the records, has found that the Hon'ble High Court has quashed the case against Meenakshi [A36] and thereafter, examination of witness is commenced. At this stage, application under Section 319 Cr.P.C., not maintainable without clear pleading regarding any material evidence against A36 in the course of examining Pws. Hence, the petition been rejected. Section 319 Cr.P.C., speaks about the power of the Court to proceed against the person, who is not being the accused, but material appears that he has committed offence, for which, the said person could be tried together with the other accused. This power can be exercised at any stage. The only requirement is that the Court should have sufficient material to proceed against the person and to be tried along with the other accused.

3. In this case, in fact the High Court has applied his mind and had discharged the said accused Meenakshi. While so, the application



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filed under Section 319 Cr.P.C., without new material which could be impressive on the Judicial Magistrate to invoke Section 319 Cr.P.C., the Magistrate has referred the order passed by the High Court and evidence so far recorded does not provide any new material to proceed against Meenakshi, who was formerly arrayed as A36 and discharged by the High Court.

4. In the light of the above fact, the petition filed challenging the order passed by the Magistrate on 15.07.2024 in the application filed by the petitioner under Section 319 Cr.P.C., is upheld, this Criminal Original Petition stands dismissed.

11.09.2024

Index : Yes/No

Neutral Citation : Yes/No

rpl

To

1.The Sessions Judge, Special Court For Trial of Cases Under SC/ST (PoA) Act, Tiruppur

2.The Deputy Superintendent of Police,
Sankari Police Station, Salem District.

3.The Public Prosecutor,
High Court of Madras,



Chennai.

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