



IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 11.01.2024

CORAM

THE HONOURABLE MR. JUSTICE N. ANAND VENKATESH

Crl.O.P No.6633 of 2023
and Crl.MP.No.4163 of 2023

P.Selvan

..Petitioner/Accused

.Vs.

The State
Rep.by
Inspector of Police
All Women Police Station.
Pollachi. (in Cr.No.7/2016)

.. Respondent /Complainant

PRAYER: Criminal Original Petition filed under Section 482 of the Code of Criminal Procedure, to call for the records pertaining to the committal order in PRC No.15 of 2022 dated 8.7.2022 in S.C.No.122 of 2022, on the file of Mahila Court, Coimbatore and set aside the same with a direction to remit back the matter from Mahila Court, Coimbatore to Judicial Magisterial No.I, Pollachi.

For Petitioner : Ms.Pooja Shree

For Respondent : Mr.A.Damodaran

Additional Public Prosecutor

ORDER

The order passed by the Court below committing the case to the Sessions Court in exercise of its powers under Section 323 Cr.PC., has been put to challenge in the present criminal original petition.



2.The petitioner was facing trial before the Court below for offence under Sections 417 and 506(i) IPC. Initially, the case was investigated for offence under Sections 417, 376 and 506(i) IPC. A final report was filed only for offence under Sections 417 and 506(i) IPC. The Court below took cognizance of these offences and the final report was taken on file in C.C.No.97 of 2018.

3.The charges were framed by the Court below for offence under Section 417 and 506(i) IPC and the trial also commenced by examining the victim girl as PW.1. At that stage, the Court below by an order dated 08.07.2022, came to a conclusion that the facts of the present case warrants the case to be committed to the Court of Session. Accordingly, the case was committed to the Mahila Court, Coimbatore and it was taken on file in S.C No.122 of 2022.

4.Heard Ms.Pooja Shree, learned counsel for the petitioner and Mr.A.Damodaran, learned Additional Public Prosecutor for the respondent.

5.The final report was filed in this case for offence under Sections 417 and 506(i) IPC. The charges were also framed against the petitioner for these offences. The trial had also commenced by examining the victim girl as PW.1. The Court below by order dated 8.7.2022, came to a conclusion that the case must be tried only by a Court of Session. While arriving at that conclusion, the Court below had not assigned any reasons. The Court below ought to have said that based on the



materials, there is a serious offence involved which can be tried only by the Court of Session. The Court must also have indicated that offence. Nothing has been done in this case and straightway the Court below had exercise its powers under Section 323 Cr.PC and while exercising this power the Court below has to assign some reasons for committing the case.

6.The Order passed by the Court below dated 8.7.2022, requires the interference of this Court. Accordingly, the same is hereby set aside.

7.The Court below can continue with the proceedings and if ultimately at the end of the trial, the Court below finds that a higher punishment must be inflicted on the accused person, it can always exercise its powers under Section 325 Cr.PC and record the finding that the accused is guilty and then record a finding that the punishment to be imposed as severe than he is empowered to inflict. Thereafter, the matter can be placed before the higher Court which can exercise its power under Section 325(3) Cr.PC. This shall be kept in mind by the Court below.

8.There shall be a direction to the Mahila Court, Coimbatore to retransfer the bundle to the file of the Judicial Magistrate No.I, Pollachi, within a period of **four weeks** from the date of receipt of copy of this order. On receipt of the case bundle, the Court below shall proceed further to conduct the case in original C.C.No.97 of 2018. The proceedings shall be completed within a period of **six months** thereafter.



N. ANAND VENKATESH., J

KP

9. In the result, this criminal original petition is allowed with the above directions. Consequently, connected miscellaneous petition is closed.

11.01.2024

Index : Yes/No
Speaking Order/Non-Speaking Order
Neutral citation : Yes/No
KP

To

1. Inspector of Police
All Women Police Station.
Pollachi.
2. Mahila Court, Coimbatore.
3. Judicial Magisterial No.I, Pollachi.

CrI.O.P No.6633 of 2023