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Crl.R.C.No.2052 of 2023

**IN THE HIGH COURT OF JUDICATURE AT MADRAS**

**DATED : 29.07.2024**

**CORAM**

**THE HONOURABLE MR.JUSTICE M.DHANDAPANI**

**Crl.R.C.No.2052 of 2023**

**And**

**Crl.M.P.No.18914 of 2023**

N.Tamilselvan

... Petitioner

Vs.

The State rep. by,  
The Inspector of Police,  
W – 34, All Women Police Station,  
Ennore, Chennai – 600 057.  
(Crime No.12 of 2021)

... Respondent

**Prayer:**

Criminal Revision Case filed under Section 397 r/w. Section 401 of Criminal Procedure Code, seeking to call for the records in Crl.M.P.No.610 of 2023 on the file of the learned Sessions Judge, Magalir Neethi Mandram, Fast Track Mahila Court, Tiruvallur and set aside the order dated 01.11.2023 passed by the learned Sessions Judge, Magalir Neethi Mandram, Fast Track Mahila Court, Tiruvallur in Crl.M.P.No.610 of 2023 in Spl.S.C.No.136 of 2022 and consequently discharge the petitioner from the case in Spl.S.C.No.136 of 2022.

For Petitioner : Mr.S.Varun  
For Respondent : Mr.A.Gopinath  
Government Advocate (Crl. Side)



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## **ORDER**

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The criminal revision case has been filed seeking to set aside the order dated 01.11.2023 made in CrI.M.P.No.610 of 2023 in Spl.S.C.No.136 of 2022 on the file of the learned Sessions Judge, Magalir Neethi Mandram, Fast Track Mahila Court, Tiruvallur.

2.The learned counsel for the petitioner submitted that the petitioner is the accused in Crime No.12 of 2021 on the file of the respondent for the offence under Sections 363, 365, 376 of IPC, Sections 5(h) and 6 of the Protection Of Child From Sexual Offences Act and Section 3 (1) (w) (i) of the Scheduled Caste and Scheduled Tribes (Prevention of Atrocities) Act subsequently altered to Sections 363, 365, 376, 376(3) of IPC, Section 3(a) r/w Section 4 (2), Section 5(h) r/w Section 6 (1) of the Protection Of Child From Sexual Offences Act and Section 3 (1) (w) (i) & (ii) of the Scheduled Caste and Scheduled Tribes (Prevention of Atrocities) Act and the law enforcing agency filed the charge sheet before the learned Sessions Judge, Magalir Neethi Mandram, Fast Track Mahila Court, Tiruvallur.

3.The learned counsel for the petitioner further submitted that the petitioner filed discharge petition in CrI.M.P.No.610 of 2023,

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however, the trial Court dismissed the said petition on the ground that the petitioner committed aggravated penetrative sexual assault to the victim. The learned counsel further submitted that the victim in this case did not die, however, inadvertently, the trial Court has observed that the intention and continuous activities of the petitioner/ accused to commit suicide of the deceased was well established by the statements of LW1 to LW4 and other witnesses. The learned counsel further submitted that the petitioner is alleged to have been involved in the offence under SC/ST Act, however, no evidence to prove the same was available in the final report filed by the law enforcing agency, however, without considering the contradictions, the trial Court dismissed the petition filed by the petitioner.

4.The learned Government Advocate (Crl. Side) appearing for the respondent fairly submitted that the victim did not commit suicide, however, inadvertently, the trial Court observed that the intention and continuous activities of the petitioner/ accused to commit suicide of the deceased was well established by the statements of LW1 to LW4 and other witnesses. He further submitted that the portion 'to commit suicide of the deceased' could be deleted. He further submitted that the other contentions of the petitioner has to be decided during trial



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and further submitted that while deciding discharge petition, the trial Court has to consider as to whether there is prima facie case. In the present case, prima facie case was very much available and hence, the trial Court dismissed the discharge petition filed by the petitioner.

5. Heard the learned counsel appearing for the petitioner as well as the learned Government Advocate (Crl. Side) appearing for the respondent.

6. Admittedly, the victim did not commit suicide, however, inadvertently, the trial Court has observed that the intention and continuous activities of the petitioner/ accused to commit suicide of the deceased was well established by the statements of LW1 to LW4 and other witnesses. Hence, the observation 'to commit suicide of the deceased' is deleted from the impugned order. The other contentions of the petitioner has to be decided only during trial. Further, while deciding discharge petition, the trial Court has to consider as to whether there is any prima facie case. In the present case, prima facie case was very much available and hence, the trial Court rightly dismissed the discharge petition filed by the petitioner, which warrants no interference.



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7.At this juncture, the learned counsel appearing for the petitioner prayed that the appearance of the petitioner before the Trial Court may be dispensed with and submitted that the petitioner is ready to appear as and when necessary arise.

8.Having regard to the submission made by the learned counsel appearing for the petitioner, the appearance of the petitioner before the Trial Court is dispensed with. However, this order will not stand on the way of the Trial Court to insist for the appearance of the petitioner for receiving copies under Section 207 of Cr.P.C., questioning under Section 313 of Cr.P.C. and at the time of passing of the final judgement and as and when the Trial Court feels it necessary.

9.This revision is dismissed. Consequently, the connected miscellaneous petition is closed.

29.07.2024

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Index: Yes/ No  
Speaking Order: Yes/ No  
NCC: Yes/ No

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**M.DHANDAPANI,J.**  
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To

- 1.The Sessions Judge, Magalir Neethi Mandram,  
Fast Track Mahila Court, Tiruvallur.
- 2.The Inspector of Police,  
W – 34, All Women Police Station,  
Ennore,  
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