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CrI.O.P.No.29744 of 2024

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 27.11.2024

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THE HONOURABLE MR.JUSTICE P.VELMURUGAN

CrI.O.P.No.29744 of 2024

1. R.Bavani
2. S.S.Eswari

... Petitioners

Vs.

1. The Assistant Commissioner of Police,
Washermenpet Range,
Chennai.

2. State Rep.by its,
Sub-Inspector of Police,
H-6, R.K.Nagar Police Station,
Crime No.1220 of 2024.

3. Thulasi

... Respondents

Prayer: Criminal Original Petition is filed under Section 528 of BNSS, 2023, to direct the Principal Sessions Judge, Special Court for trial of Cases under the SC & ST (Prevention of Atrocities) Act, Chennai, to accept the surrender of the petitioners in Crime No.1220 of 2024 on the file of the second respondent police to consider the bail application to be filed by the petitioners on the same day as their surrender.



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For Petitioners : Mr.S.Saravana Kumar

For Respondents : Mr.S.Sugendran
Additional Public Prosecutor
for R1 and R2

ORDER

This Criminal Original Petition is filed to direct the learned Principal Sessions Judge, Special Court for trial of Cases under the SC & ST (Prevention of Atrocities) Act, Chennai to consider the bail application of the petitioners herein on the same day of their surrender pertaining to Crime No.1220 of 2024 on the file of the second respondent police.

2. Heard the learned counsel for the petitioners and the learned Additional Public Prosecutor for the respondents 1 and 2 and also perused the materials available on record.

3. It is to be noted that Section 18 of the Scheduled Castes and the Scheduled Tribes (Prevention of Atrocities) Act, 1989 (in short “SC/ST Act”), is bar to file a petition under Section 438 Cr.P.C./482 BNSS. Therefore Anticipatory Bail is not maintainable for the offence under the



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SC/ST Act. Further Section 15A under Chapter IV-A was introduced by

Act 1 of 2016 w.e.f. 26.01.2016, as per which, notice has to be sent to the victim, in respect of any proceedings and without giving notice, no proceedings shall be proceeded further. Further, the inherent power under Section 482 Cr.P.C./528 BNSS should not be invoked automatically and the jurisdiction under Section 482 Cr.P.C., /528 BNSS should be exercised sparingly. When there is specific bar under the Special Act, this Court cannot ignore the intention of the Legislators and the purpose of enactment of the Special Act. If the application of the petitioners is directed to be considered on the same day without giving notice to the victim, the purpose of Section 15A(3)(5) of SC/ST Act would be defeated and the same would curtail the statutory right of the victim.

4. Under such circumstances, this Court is not inclined to invoke Section 482 Cr.P.C./528 BNSS which would amount to ignoring the provisions of the Special Act. Therefore, this petition shall stand dismissed. However, the petitioners are at liberty to workout their remedy in the manner known to law and the learned Special Judge is



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directed to exercise his/her discretionary power after giving notice to the victim. The learned Special Judge/Magistrate is also directed to adhere the statutory provisions of Sections 18 and 15 A (3)(5) of SC/ST Act.

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Index : Yes/No

Neutral Citation Case : Yes/No

Speaking Order : Yes/No

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To

1. The Principal Sessions Judge,
Special Court for trial of Cases under the SC & ST
(Prevention of Atrocities) Act, Chennai.
2. The Assistant Commissioner of Police,
Washermenpet Range,
Chennai.
3. The Sub-Inspector of Police,
H-6, R.K.Nagar Police Station,
Chennai.
4. The Public Prosecutor,
High Court, Madras.



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P.VELMURUGAN, J

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