

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 21.12.2015

CORAM

THE HONOURABLE MR.JUSTICE C.T.SELVAM

Crl.R.C.No.1196 of 2015
and
M.P.Nos.1 & 2 of 2015

Ponnusamy @ Rangasamy
S/o.Marimuthu

... Petitioner

Vs.

State represented by
The Inspector of Police,
All Women Police Station,
Erode.

... Respondent

Criminal Revision filed under sections 397 and 401 of Criminal Procedure Code against the order of learned Sessions Judge, Magalir Neethimandram, Fast Track Mahila Court, Erode, Erode District, passed in Crl.M.P.No.307 of 2015 in Spl.S.C.No.30 of 2015 on 30.10.2015.

For Petitioner : Mr.L.Baskaran

For Respondent : Mr.C.Iyyapparaj,
Government Advocate [Crl.side]

सत्यमेव जयते
O R D E R

This revision is preferred against the order of learned Sessions Judge, Magalir Neethimandram, Fast Track Mahila Court, Erode, Erode District, passed in Crl.M.P.No.307 of 2015 in Spl.S.C.No.30 of 2015 on 30.10.2015.

2. In brief, the prosecution case is that the petitioner/accused misbehaved with the de facto complainant's daughter, aged 6 years. A case was registered in Crime No.1 of 2015 on the file of respondent for offences u/s.9 and 10 of Protection of Children from Sexual Offences Act, 2012. Upon completion of investigation, a charge sheet informing commission

of offences u/s.370(4) IPC and 9 and 10 of Protection of Children from Sexual Offences Act, 2012, has been laid and the same was taken on file in Spl.S.C.No.30 of 2015 on the file of learned Sessions Judge, Magalir Neethimandram, Fast Track Mahila Court, Erode, Erode District. In such case, petitioner has filed CrI.M.P.No.307 of 2015 seeking discharge. The Court below, under orders dated 30.10.2015, dismissed such petition. Hence, this revision.

3. Heard learned counsel for petitioner and learned Government Advocate (CrI.side).

4. The admitted prosecution case is that the petitioner had lent a sum of Rs.5,000/- to the de facto complainant/father of the child and daily would visit the de facto complainant's house at around 11.00 a.m. and collect a sum of Rs.100/- from the de facto complainant's wife. This Court would allow this revision for the following reasons:

- (i) In the complaint, the de facto complainant has stated that on forcing his entry into the house of the accused he found his daughter naked and the accused in his underwear, that he shouted 'at the accused' and took his child home. In his statement recorded u/s.164 Cr.P.C., the de facto complainant informs of having forced his way to the accused house and of having found the accused in a naked state lying over the child, the child's shirt had been moved up and the accused had thrown aside his underwear, the accused put on his lungi and made good his escape before others could arrive.
- (ii) According to the complaint, the child complained of pain in her private parts and hence, the de facto complainant and his wife had her admitted at the Government Hospital, Erode, in the mid of night on the date of alleged occurrence i.e., 18.11.2015. The complaint was preferred at 06.45 a.m. on 19.11.2015. The statement of the Doctor, who examined the child at hospital informs that she did so on requisition received from Court. She found absolutely nothing wrong with the child.
- (iii) As against the complaint informing that the same was preferred at 06.45 a.m. on 19.11.2015 after admission of the child at the hospital over night, the de facto complainant's 164 Cr.P.C. statement informs that they proceeded to hospital after preference of the complaint. The offence alleged under the Indian Penal Code is one u/s.370(4). Section 370(4) IPC deals with trafficking of a minor, which is not attracted in the facts of the present case.

The Criminal Revision is allowed. The order of learned Sessions Judge, Magalir Neethimandram, Fast Track Mahila Court, Erode, Erode District, passed in Cr1.M.P.No.307 of 2015 in Spl.S.C.No.30 of 2015 on 30.10.2015, is set aside. The petitioner is discharged of the charges levelled against him. Consequently, connected miscellaneous petitions are closed.

Sd/-
Assistant Registrar(CS V)

//True Copy//

Sub Assistant Registrar

gm

To

1. The Sessions Judge,
Magalir Neethimandram,
Fast Track Mahila Court,
Erode, Erode District.
2. The Inspector of Police,
All Women Police Station,
Erode.
3. The Public Prosecutor,
High Court, Madras.

Cr1.R.C.No.1196 of 2015

PPA(CO)
CA(05/07/2016)

सत्यमेव जयते

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