

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 31.08.2015

CORAM

THE HONOURABLE MR.JUSTICE P.N.PRAKASH

Cr1.OP No.19415 of 2015
and M.P.Nos.1 and 2 of 2015

1.Swarthamma
2.Sanjeevarani .. Petitioners

Vs

1.The State by
Inspector of Police
W-13, All Women Police Station
Tondiarpet
Chennai 600 021.

2.Kalavathy .. Respondents

Prayer:- Criminal Original Petition filed under Section 482 Cr.P.C. to call for the records in C.C.No.253 of 2015 on the file of the learned XV Metropolitan Magistrate, George Town, Chennai-1 and quash the same in so far as the petitioners are concerned.

For Petitioners : Mr.M.Mohammed Rafi

For R1 : Mr.C.Emalias, Addl.Public Prosecutor

ORDER

This petition has been filed to call for the records in C.C.No.253 of 2015 on the file of the learned XV Metropolitan Magistrate, George Town, Chennai-1 and quash the same in so far as the petitioners are concerned.

2. This Court had earlier directed the petitioner to implead the defacto complainant as second respondent and accordingly, the defacto complainant was impleaded as second respondent. Notice was issued to the defacto complainant and the same has been returned unserved. The petitioners had sent private notice to the second respondent and the cover has returned to the addressee unserved with the endorsement "intimation delivered".

3. Heard the learned counsel for the petitioners and the learned Additional Public Prosecutor appearing for the State.

4. On a complaint lodged by Kalavathi, the respondent police registered a case in Cr.No.7 of 2013 on 14.12.2013 and after completing the investigation, filed a Final Report in C.C.No.253 of 2013 before the XV Metropolitan Magistrate, George Town, Chennai against three accused for offences under Sections 417, 506(i) r/w 109 IPC.

5. It is the case of the prosecution that Sanjeevi Rao [A1] was in love with Kalavathi [defacto complainant] for about five years and that he also had physical affair with her and thereafter, he refused to marry her and hence, the defacto complainant lodged the present complaint, which has culminated in the police filing a Final Report against Sanjeevi Rao [A1], his mother Swarthamma [A2] and sister Sanjeevarani [A3]. Swarthamma [A2] and Sanjeevarani [A3] are the petitioners before this Court and they are seeking to quash the prosecution on the ground that, there is no material implicating them in the offence.

6. Learned Additional Public Prosecutor resisted the plea of the learned counsel for the petitioners.

7. This Court carefully perused the FIR, the Final Report and the accompanying statements recorded under Section 161 (3) Cr.P.C. According to the defacto complainant, she was in love with Sanjeevi Rao [A1] for about 5 years and that was known to her mother also. It is seen that the accused are Christians and the defacto complainant is a Hindu. On reading of the Final Report and the statements of the witnesses, the allegations against the petitioners is that, they have not given permission to Sanjeevi Rao [A1] to marry the defacto complainant. It is alleged that Swarthamma [A2] appears to have told that, the marriage will take place only after her death. In the considered opinion of this Court, there is no material to show that they had in any way abetted the offence committed by Sanjeevi Rao [A1]. The petitioners have got every right to accept the proposal or reject the proposal. It is not the case that these petitioners had promised to conduct the marriage, but turned turtle. That apart, neither Sanjeevi Rao [A1] nor the defacto complainant is a minor. At the time when the FIR was lodged, the defacto complainant was 21 years old and Sanjeevi Rao [A1] was 24 years old. For the refusal of A1 to marry the defacto complainant, these petitioners cannot be held criminally liable. A1 could have easily walked out from the house and married the defacto complainant.

In the result, this Court is of the view that the prosecution against the petitioners herein is an abuse of process of law and accordingly, this petition is allowed and the proceedings in

C.C.No.253 of 2015 on the file of the learned XV Metropolitan Magistrate, George Town, Chennai are quashed. Consequently, connected miscellaneous petitions are closed.

gms

s/d-
Assistant Registrar(CO)

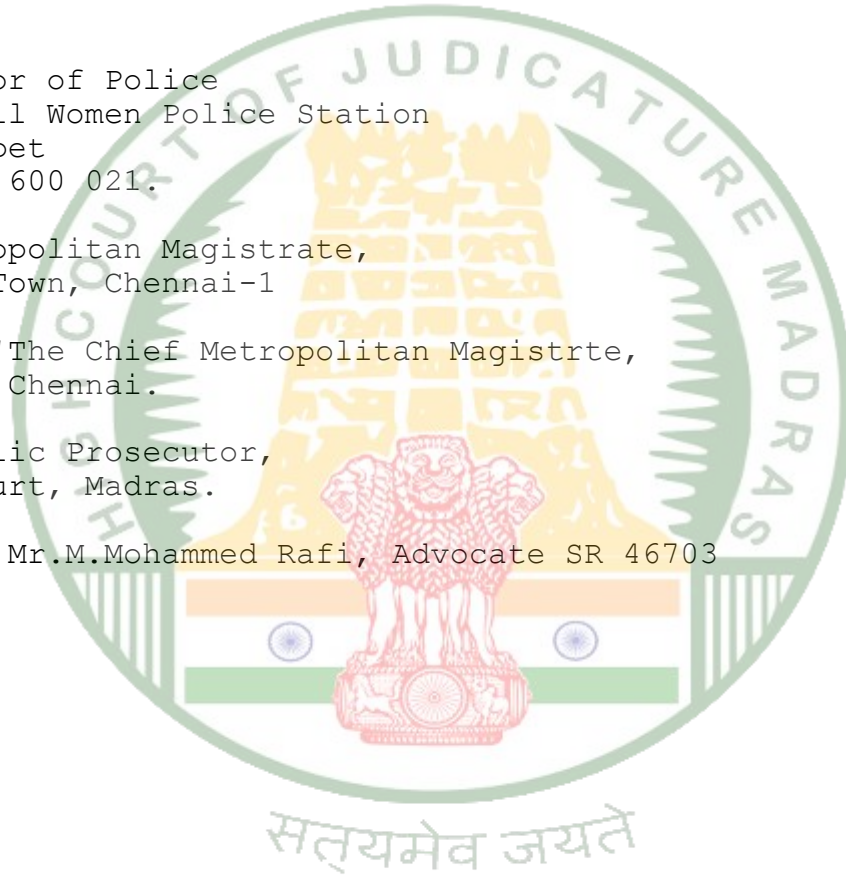
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Sub-Assistant Registrar

To

1. Inspector of Police
W-13, All Women Police Station
Tondiarpet
Chennai 600 021.
 2. XV Metropolitan Magistrate,
George Town, Chennai-1
 3. do thro' The Chief Metropolitan Magistrate,
Egmore, Chennai.
 4. The Public Prosecutor,
High Court, Madras.
- + 1 cc to Mr.M.Mohammed Rafi, Advocate SR 46703

gj(co)
prk25/9



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