

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 13.02.2015

CORAM

The Hon'ble Mr. Justice R.S.Ramanathan

CrI.O.P.No. 3301 of 2015
and
M.P.No.1 of 2015

Mohan Kumar

...Petitioner/Accused

vs.

The State, rep. by
Inspector of Police,
All Women Police Station,
Palladam.
(Cr.No.2/2014)

...Respondent/Complainant

Criminal Original Petition filed under Section 482 of the Criminal Procedure Code to set aside the order, dated 27.01.2015, passed in C.M.P.No.373 of 2014, in Spl.S.C.No.7 of 2014, on the file of the Mahalir Neethimandram (Fast Track Mahila Court, Tiruppur).

For Petitioner : Mr. S.Manickam

For Respondent : Mr.M.Maharaja
Additional Public Prosecutor

O R D E R

This Petition is filed to set aside the order, dated 27.01.2015, passed by the learned Sessions Judge, Mahalir Neethimandram, Fast Track Mahila Court, Tiruppur, in dismissing C.M.P.No.373 of 2014, in Spl.S.C.No.7 of 2014.

2. The petitioner is an accused in the abovesaid Sessions Case. He was charged for offence punishable under Sections 7 and 8 of Protection of Children from Sexual Offences Act, 2012, later altered into offence under Section 354 IPC, and for offence under Section 4 of the Tamil Nadu Prohibition of Harassment of Women Act and under Section 9 (m) read with 10 of the Protection of Children from Sexual Offences Act, 2012. After the prosecution witnesses were examined, and when the case was posted for examination of defence witness, the petitioner/accused filed C.M.P.No.373 of 2014, to recall P.W.8, stating that some documents were omitted to be marked and some important questions were not asked to P.W.8, when she

was originally cross-examined. As the said Petition was dismissed by the learned Sessions Judge, by order, dated 27.01.2015, the present Petition is filed to set aside the said order.

3. The learned counsel for the petitioner submitted that some photos were omitted to be marked, and the photos are nothing but the flowers in his house, which would fortify the case of the petitioner that only for the purpose of giving flowers, P.W.8 was called inside his house, and regarding the same, P.W.8 has to be recalled.

4. On the aforesaid submissions, heard the learned Additional Public Prosecutor, representing the respondent/Police.

5. I am unable to accept the contentions of the learned counsel appearing for the petitioner. As stated supra, the gravamen of the charge against the petitioner is that, on 06.01.2014, when P.W.8/victim along with her friends were returning back to home from School, and while they were proceeding towards their way, they happened to cross the petitioner's house, at that point of time, the petitioner called Sathiyapriya, and her friends to enter his compound by giving false promise that he would offer flowers to them, with an intention to cause harassment to Sathiyapriya, and as soon as they entered into the petitioner's compound, the petitioner/accused, impulsed by lust, caused criminal assault on her.

6. Admittedly, P.W.8, the victim girl was aged nine and she was examined on 13.10.2014, and was also cross-examined by the petitioner. Though it is stated, that Petition to recall P.W.8 was filed to mark certain photos taken in the house of the petitioner, so as to prove that there was flower garden in his house and with an intention to give flowers to the girls, the petitioner called them to his house, having regard to the nature of allegations levelled against him in the chargesheet, and taking into consideration of facts that P.W.8, the victim girl was already examined; owing to the threat exerted by the petitioner, she and her family members shifted their residence; and the age of P.W.8, who is only 9 years old, the Trial Court rightly dismissed the Petition filed by the petitioner. I do not find any reason to interfere with the same.

7. In the result, the Criminal Original Petition is dismissed. Consequently, connected M.P. is closed.

Sd/-
Assistant Registrar

//True Copy//

Sub Assistant Registrar

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To

1. Inspector of Police,
All Women Police Station,
Palladam.

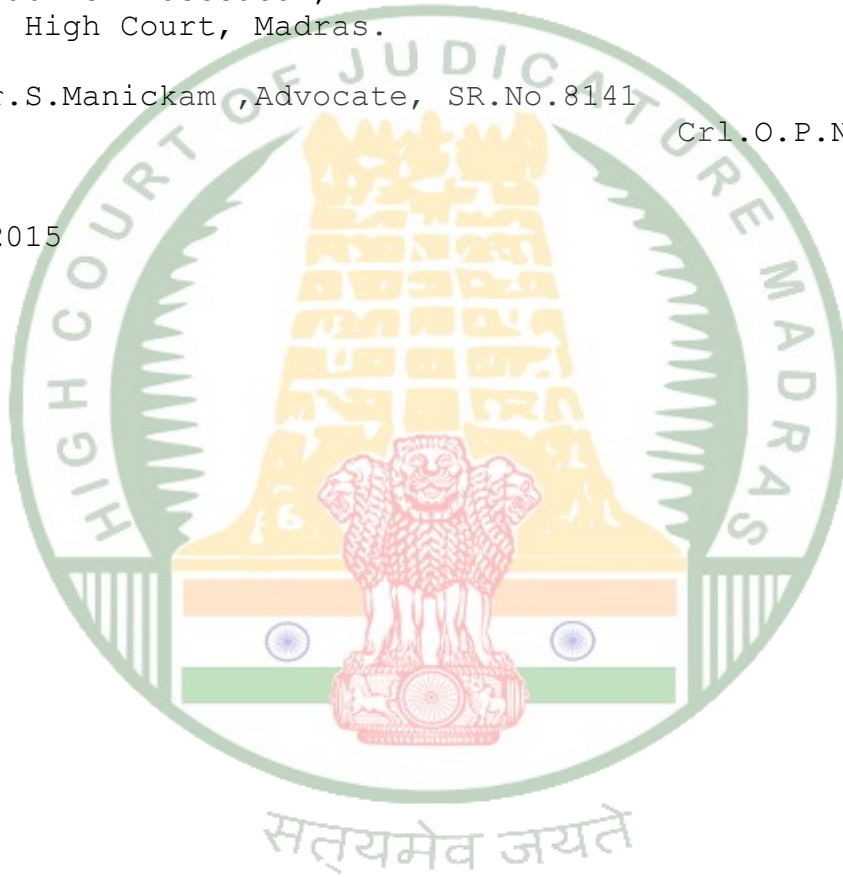
2.The Mahalir Neethimandram
(Fast Track Court), Tiruppur.

3. The Public Prosecutor,
High Court, Madras.

1 cc to Mr.S.Manickam ,Advocate, SR.No.8141

Crl.O.P.No. 3301 of 2015

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