IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 10.02.2015

CORAM

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

Crl.O.P.No.28961 of 2014

Mary Sindhu .. Petitioner/Defacto Complainant

vs.

The State Rep. by
The Inspector of Police,
N2, Kasimedu Police Station,
Kasimedu, Chennai. .. Respondent/Complainant

Criminal Original Petition filed under Section 482 of the Criminal Procedure Code praying to direct the respondent to register the case based on the petitioner complaint dated 25.06.2014 in C.S.R.No.370/2014.

For Petitioner : Mr.S.Prabhakaran
for Mr.T.P.Senthilkumar

For Respondent : Mr.M.Maharaja
Additional Public Prosecutor

O R D E R

This petition is filed under Section 482 CrPC, seeking for a direction to the respondent to register a case based on the petitioner's complaint dated 25.06.2014 in C.S.R.No.370/2014.

2. It is submitted by Mr.S.Prabhakaran, learned counsel for the petitioner that the complaint given by the petitioner discloses cognizable offence and therefore, as per the judgement in Dinubhai Boghabhai Solanki v. State of Gujarat and Others reported in (2014) 4 SCC 626, the police ought to have registered a case and conducted enquiry and without registering a case, they proceeded with the enquiry and they have not informed about the result of the enquiry and the complaint discloses commission of offence under Sections 376 IPC and therefore, suitable direction may be given to the police.

3. The learned Additional Public Prosecutor produced the case file and submitted that though the case was not registered on the basis of the complaint given by the petitioner, enquiry was conducted

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and 24 witnesses were examined and the petitioner was not available in the address given in the complaint and therefore, she was not examined and the statement given by the witnesses do not support the case of the complainant.

4. A reading of the complaint discloses that cognizable offence punishable under Section 376 IPC has been committed by the accused. Therefore, when the complaint discloses commission of cognizable offence, the police have to register a case. Even accepting the submission of the learned Additional Public Prosecutor that for the purpose of finding the truth, they conducted enquiry, they have not examined the victim girl who is the competent witness to speak about the occurrence and the victim was also not subjected to medical examination. Though it is submitted by the learned Additional Public Prosecutor that the victim girl was not available in the address given in the complaint, no material was given by the police to the effect that summons were issued for her appearance and in the absence of any such material, the statement of the learned Additional Public Prosecutor that the victim girl was not available cannot be accepted at this stage.

5. Therefore, having regard to the decision of the Hon'ble Supreme Court of India cited supra, the respondent police is directed to register a case on the complaint given by the petitioner dated 25.06.2014, conduct enquiry and file a final report. The petitioner is also directed to appear before the respondent police for enquiry on 18.02.2015 and after examination of the petitioner and subjecting her for medical examination, the respondent police is directed to examine further witnesses and file final report in accordance with law.

6. This Criminal Original Petition is disposed of accordingly.

Sd/-
Assistant Registrar

//True Copy//

Sub Assistant Registrar

jvm

To
1.The Inspector of Police,
N2, Kasimedu Police Station,
Kasimedu, Chennai.

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2.The Public Prosecutor,
High Court, Madras.

1 cc to Mr.T.P.Senthilkumar ,Advocate, SR.No.7137

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