

IN THE HIGH COURT OF JUDICATURE AT MADRAS

Reserved on : 06.07.2015

Delivered on : 13.07.2015

CORAM

THE HONOURABLE MR.JUSTICE P.N.PRAKASH

W.P.No.19348 of 2012

Meenakshi

...Petitioner

Versus

1.State of Tamil Nadu
Represented by Home Secretary,
Fort St. George, Chennai-9.

2.Director of General of Police,
Kamaraj Salai, Chennai-4.

3.Commissioner of Police,
Egmore, Chennai-2.

4.Inspector of Police,
R6 Police Station,
Kumaran Nagar, Chennai-83.

5.R.Balajee

...Respondents

Writ petition filed under Article 226 of the Constitution of India praying for a Writ of Mandamus directing the first and second respondents to entrust the reinvestigation of the case in Crime Number 182 of 2008 pending as S.C.No.126 of 2009 on the file of the Hon'ble Mahila Court, Chennai to the Crime Branch [CBCID].

For Petitioner : Ms.Geetha Ramaseshan

For Respondents : Mr.C.Emalias, Addl. Public Prosecutor
[for R1 to R4]

O R D E R

The petitioner has filed this Writ Petition praying for a writ of mandamus to direct the 1st and 2nd respondent to entrust the reinvestigation of the case in Crime Number 182 of 2008 pending as S.C.No.126 of 2009 on the file of the learned Mahila Court, Chennai

to the Crime Branch [CBCID].

2. Heard the learned counsel for the petitioner; the learned Additional Public Prosecutor appearing for respondents 1 to 4 and perused the materials placed on record.

3. Facts are stranger than fiction. The facts obtaining in this case seems to vindicate the said aphorism. The victim in this case was six years old, when the alleged sexual abuse on her took place in February 2008. I would prefer to refer her as 'x'. It is alleged that 'x' was subjected to sexual assault on 07.02.2008 by one Katturaja.

4. In connection with this incident, the respondent police registered a case in Crime No.182 of 2008 under Section 376[2] and 307 IPC. After conducting investigation, the police filed a Final Report before the jurisdictional Magistrate and the case was committed to the court of Sessions and later made over to the Mahila Court, Chennai, where it is under trial in SC.No.126 of 2009. When Meenakshi the mother of 'x' went to give evidence in SC.No.126 of 2009, she was shocked to find one Ayyappan in the dock and not Katturaja. She protested before the Trial Judge and an application for further investigation was made. It appears that even after further investigation, the police have stuck to their guns, aggrieved by which, Meenakshi is before this Court with this Writ Petition. This Writ Petition has been pending since 2012 on account of which, the trial before the Sessions Court has come to a grinding halt.

5. Ms.Geetha Ramaseshan, learned counsel appearing for the petitioner submitted that 'x' was examined by one Ms.Jayanthini in the Child Guidance Clinic, Institute of Child Health, Egmore on 24.06.2008, 26.06.2008 to whom 'x' had stated that she was sexually abused by Soorya's father. Soorya's father is Katturaja and they are the landlords in the house in which the family of 'x' were tenants.

6. Now of course, they have moved out of the place and are living elsewhere, which is quite natural. The conversation of the Child Psychiatrist with 'x' appears to have been videographed and those documents are available on the file of Mahila Court in SC.No.126 of 2009. On the directions of this Court, Mr.D.Kannan, Deputy Commissioner of Police, Adyar was present on 06.07.2015. This Court explained to him the seriousness of the case and the gravity of the assertions made by Meenakshi. Mr.D.Kannan, Deputy Commissioner of Police, Adyar submitted to this Court that he would do his best for bringing the guilty to justice. Now, all the records including the records collected by the police during further investigation is available before the Trial Court.

7. This Court is of the view that it will serve the interest of justice, if the Trial Court is directed to independently analyse the materials produced before it and also view the various videographs in the presence of 'x', her mother, her counsel, the Trial Court Public Prosecutor, the Deputy Commissioner of Police, Adyar, the Investigating Officer, the accused and his counsel. The presence of the Psychiatrist can also be requisitioned, if the Trial Judge deems it necessary.

8. This Court is confident that the Trial Judge in her wisdom will analyse the matter threadbare to the satisfaction of the parties concerned. If the Trial Judge is of the view that a further investigation is required, she is at liberty to pass any order under Section 173[8] Cr.P.C. After all, the endeavour of the criminal justice system is to protect the innocent and punish the guilty. The Trial Judge may remember that even based on the evidence in chief of 'x', powers under Section 319 Cr.P.C can be invoked to summon the true accused. Since this case is of the year 2008, the Trial Judge is directed to expeditiously conduct the enquiry and proceed with the trial without delay.

9. In view of the above directions, this petition is closed, with liberty to the petitioner to approach this Court as and when the need arises, by filing a fresh application.

Sd/-
Assistant Registrar (CS-II)

//True Copy//

Sub Assistant Registrar

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To

1.The Home Secretary,
State of Tamil Nadu,
Fort St. George, Chennai-9.

2.The Director of General of Police,
Kamaraj Salai, Chennai-4.

3.The Commissioner of Police,
Egmore, Chennai-2.

4.The Inspector of Police,
R6 Police Station,
Kumaran Nagar, Chennai-83.

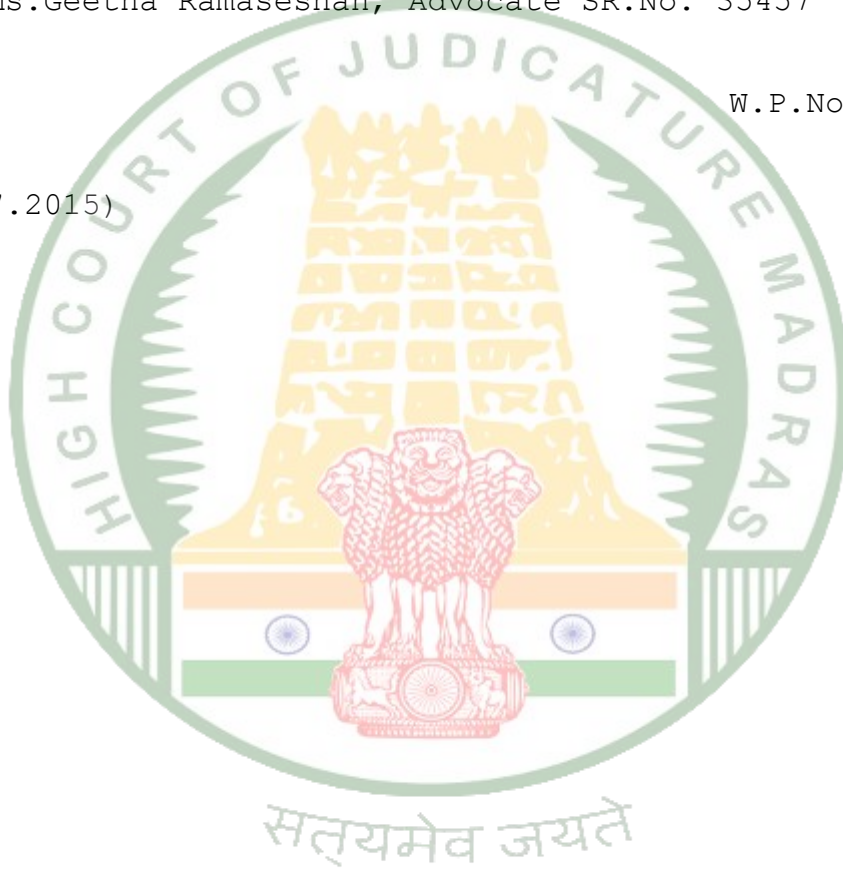
5.The Deputy Commissioner of Police,
Adyar, Chennai.

6.The Public Prosecutor,
High Court, Madras.

2 CCs to Ms.Geetha Ramaseshan, Advocate SR.No. 35457

W.P.No.19348 of 2012

CA (CO)
PSI (27.07.2015)



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