

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 30.06.2016

CORAM:

THE HON'BLE MR. JUSTICE P.N. PRAKASH

Cr1.O.P. No.8795 of 2016

S. Gopalakrishnan

... Petitioner

vs.

1. State by
Inspector of Police
West Police Station
Pollachi
Coimbatore District

- 2 P. Selvaraj ... Respondents

Criminal Original Petition filed under Section 482 Cr.P.C. seeking to call for the records in P.R.C. No.2 of 2016 pending on the file of the Judicial Magistrate Court No.II, Pollachi and quash the same.

For petitioner Mr. C. Veeraraghavan

For R1

Mr. C. Emalias
Additional Public Prosecutor

For R2

Mr. P.S. Kothandaraman

ORDER

This Criminal Original Petition is filed seeking to call for the records in P.R.C. No.2 of 2016, pending on the file of the Judicial Magistrate Court No.II, Pollachi and quash the same.

2 Heard the learned counsel for the petitioner, the learned Additional Public Prosecutor appearing for the first respondent-State and the learned counsel for the second respondent.

3 On the complaint lodged by Selvaraj, the second respondent, that his daughter Hemalatha is missing, the first respondent police registered a case in Crime No.185 of 2015 on 24.06.2015 for girl missing and after completing the investigation, has filed a final report in P.R.C. No.2 of 2016

for offences under Sections 366, 376(1) and 506(II) IPC against one Gopalakrishnan, challenging which, he is before this Court on the ground that the parties have arrived at a compromise.

4 In a case where the prosecution is under Section 376 IPC, this Court cannot quash the prosecution only on the ground that the parties have arrived at a compromise and therefore, this Court perused the entire records.

5 It is seen that the Gopalakrishnan, the petitioner, is the sister's husband of Hemalatha. According to the final report, Gopalakrishnan had abducted Hemalatha, who is aged about 19 years and had sexual relationship with her. The police have produced Hemalatha, the victim girl, before the Judicial Magistrate No.I, Pollachi, who has recorded the statement of the victim girl under Section 164 Cr.P.C. on 02.09.2015. In the Section 164 Cr.P.C. statement given by the victim girl, she has clearly stated that on 23.06.2015, her parents and her brother had upbraided her for not studying properly and so, out of frustration, she had left her house on her own and went to her sister's house, where, her brother-in-law Gopalakrishnan had chided her for coming to his house without informing her parents. Thereafter, it was he who brought her and left her in her parents' home, despite which, her father has given a false complaint as if she has been abducted by Gopalakrishnan. Despite such a statement having been given by Hemalatha to the Judicial Magistrate No.I, Pollachi, the police have proceeded to file the present final report based on Section 161, Cr.P.C. statement recorded by them.

6 Today, Selvaraj and Hemalatha are present before this Court. Hemalatha has filed an affidavit dated 23.03.2016, wherein, at paragraph no.3, she has stated as follows:

"3. I state that my father was preferred complaint against my uncle i.e., the petitioner as mentioned in the complaint due to some misunderstanding between him and my uncle due to some family dispute. At that time, I was forced to give 161 statement against my uncle and I was given the statement due to the pressure. After I was realised and I was give statement to the Judicial Magistrate No.II, Pollachi in detail. In view of the same petitioner and I have no grievance against the petitioner and I have no objection to quash the complaint preferred against the petitioner by my father. If the complaint is not quashed, I will be put to great hardship and my career will be spoiled and already suffered lot in view of the complaint preferred by my father."

7 Selvaraj who is present before this Court has stated that he himself has made arrangements for the wedding of Hemalatha to be held on 06.07.2016 and if the prosecution in this case continues, it will spoil his daughter's future.

In view of the above, the proceedings in S.C. No.61 of 2016 on the file of the Mahila Court, Coimbatore, is hereby quashed and this Criminal Original Petition is allowed.

Sd/-
Assistant Registrar(CS III)

//True Copy//

Sub Assistant Registrar

To

- 1 The Inspector of Police,
West Police Station,
Pollachi, Coimbatore District.
- 2 The Judicial Magistrate No.II,
Pollachi.
- 3 The Presiding Officer,
The Mahila Court,
Coimbatore.
- 4 The Public Prosecutor,
High Court of Madras,
Chennai 600 104.

सत्यमेव जयते

Cr1.O.P. No.8795 of 2016

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