

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 04.01.2017

CORAM:

THE HON'BLE MR.JUSTICE C.T. SELVAM

Crl.R.C.No.1703 of 2016

and

Crl.M.P.No.14184 of 2016

Purushothaman
S/o.Arumugam

.. Petitioner/Accused

vs.

The State represented by
The Inspector of Police,
W-21, All Women Police Station,
Guindy, Chennai. .. Respondent/Complainant

Criminal Revision filed under Section 397 and 401 Cr.P.C.
against the order of learned Judge, Mahila Court, Chennai,
passed in Crl.M.P.No.14325 of 2016 in S.C.No.148 of 2015 on
23.11.2016.

For Petitioner : Mr.E.Kannadasan
For Respondent : Mr.M.Mohammed Riyaz
Government Advocate (Crl.side)

O R D E R

This revision arises against the order of learned Judge,
Mahila Court, Chennai, passed in Crl.M.P.No.14325 of 2016 in
S.C.No.148 of 2015 on 23.11.2016.

2. In case in S.C.No.148 of 2015 on the file of learned
Judge, Mahila Court, Chennai, petitioner has been tried for
offences u/s.6 of Protection of Children from Sexual Offences
Act and 506(ii) IPC. Petitioner has moved Crl.M.P.No.14325 of
2016 in S.C.No.148 of 2015 seeking medical examination of the
alleged victim girl towards determining her age. Against
dismissal of such petition, the present revision stands filed.

3. Heard learned counsel for petitioner and learned
Government Advocate [Crl.side].

4. Learned counsel for petitioner submits that regarding the case registered in Crime No.9 of 2014 on the file of respondent, a requisition for medical examination inter alia for determination of age of the victim girl was forwarded by the IX Metropolitan Magistrate, Saidapet, Chennai, to the Professor of Police Surgeon, Government Royapettah Hospital, Chennai, on 24.11.2014. The report received pursuant thereto has been suppressed by the prosecution. Both in registering the case as also in recording her statement u/s.161 Cr.P.C., the age of the alleged victim girl was informed to be 18 years. Learned counsel submits that in filing the charge sheet, the investigating officer has informed the age of the victim girl to be below 18 and on the basis thereof, offence under the Protection of Children from Sexual Offences Act has been levelled against the petitioner. The document relied by the prosecution towards informing the age of the victim to be below 18 is a xerox copy of the School Certificate allegedly issued by the Head Master of the school wherein the victim girl studied but such certificate bears not the signature of the Principal nor any seal of the School. Learned counsel submits that in such circumstances, petitioner though it fit to have the age of the victim determined through conduct of an ossification test but Court below wrongly has dismissed the petition.

5. The result of an ossification test cannot be taken to be determinative on the age of the person examined. The same is in the nature of a here, there or thereabouts statement. It boils down to being a mere statement of the opinion of the Doctor who conducts the examination. When once the purpose for which CrI.M.P.No.14325 of 2016 stands filed will not be definitely served by passing favourable order therein, it would follow that there would be no reason to interfere with the order under challenge. It would be open to petitioner to raise the contentions of learned counsel for petitioner above informed before the trial Court and this Court has no reason to think that the same would not receive due consideration.

Observing as above, the Criminal Revision Case shall stand dismissed. Connected miscellaneous petition is closed.

Sd/-
Assistant Registrar

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Sub Assistant Registrar

gm

To

1.The Sessions Judge,
Mahila Court,
Chennai.

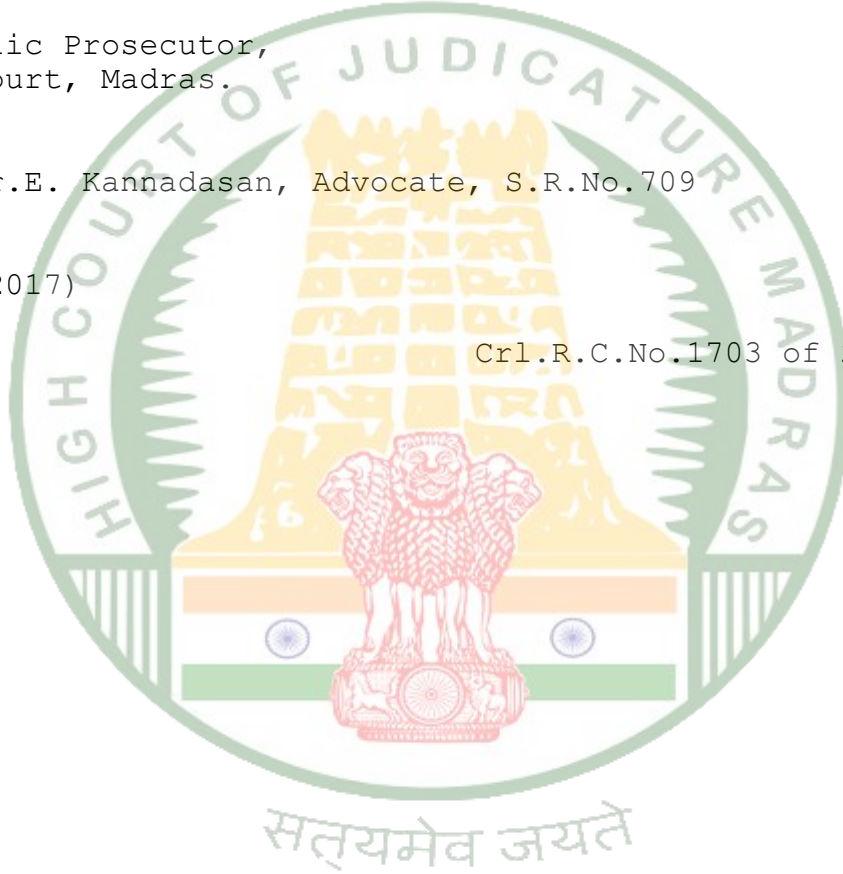
2.The Inspector of Police,
W-21, All Women Police Station,
Guindy, Chennai.

3.The Public Prosecutor,
High Court, Madras.

+lcc to Mr.E. Kannadasan, Advocate, S.R.No.709

mg(CO)
md(06/01/2017)

Crl.R.C.No.1703 of 2016



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