

IN THE HIGH COURT OF JUDICATURE AT MADRAS

Dated: 02.01.2017

Coram

THE HONOURABLE MR. JUSTICE R.MAHADEVAN

Crl.O.P.No.26403 of 2016

Baskaran

.. Petitioner/Petitioner/
Accused

Vs.

The State rep.by
its Inspector of Police,
All Women Police Station
Erode, Erode District.

.. Respondent/Complainant

Prayer:- Criminal Original Petition filed under Section 439(1) (b)Cr.P.C to modify the condition that he should appear before the respondent police and the investigation officer is directed to take necessary steps to get DNA test to the petitioner, as well as the disputed child and also biological mother of the victim within a period not less than one month from the appearance of the accused before the investigating officer after complying the formality for DNA test, the investigation officer is directed to file his report before this court, as imposed in order dated 21.10.2016 made in Crl.MP.No.1084 of 2016 on the file of the learned Principal Sessions Judge, Erode.

For Petitioner :Mr.N.Manokaran

For Respondent :Mr.C.Emalias, APP

ORDER

This petition has been filed to modify the condition that "the petitioner should appear before the respondent police and the investigation officer is directed to take necessary steps to get DNA test to the petitioner, as well as the disputed child and also biological mother of the victim within a period not less than one month from the appearance of the accused before the investigation officer and after complying the formality for DNA test, the investigation officer is directed to file his report before this court" as imposed by the learned Principal Sessions Judge, Erode, while granting the anticipatory bail to

the petitioner, vide order dated 21.10.2016 made in CrI.MP.No.1084 of 2016.

2. When the matter came up for hearing, the learned counsel for the petitioner fairly submitted that the issue involved herein has already been decided against the petitioner/accused, by the Andhra Pradesh High Court in the case in Kodi Satish Naidu v. the State of A.P. reported in CDJ 2015 APHC 082, wherein, it has been held at para 6 as follows:

"Viewed thus, this Court finds that Article 20 (3) of the Constitution of India, which protects a person accused of an offence from being compelled to be a witness against himself, does not extend to protecting such an accused from being compelled to give his sample of blood etcetera for the purposes mentioned in Section 53 of the Cr.P.C during the course of investigation into an offence. Therefore, I find no infirmity in the order impugned passed by the learned Sessions Judge confirming the order passed by learned Additional Judicial Magistrate of First Class, Rajahmundry."

3. In view of the above, the prayer sought for herein cannot be considered by this Court. Accordingly, the Criminal Original Petition is dismissed and the petitioner is directed to co-operate with the respondent police for enquiry.

-s/d-
Assistant Registrar

True Copy

Sub-Assistant Registrar

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To

1. The Inspector of Police,
All Women Police Station
Erode, Erode District.

2. The Public Prosecutor, High Court, Madras-104.

+1 cc to M/s.N.Manokaran Advocate sr 263/17

CrI.OP.No.26403 of 2016

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