



BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT
DATED: 12.04.2017

CORAM:

THE HONOURABLE MR. JUSTICE P.N. PRAKASH

CRL.O.P. (MD) No.4277 of 2017

and

Crl.M.P. (MD) Nos.3077 and 3078 of 2017

Senthilkumar : Petitioner/Sole Accused
-Vs-

1.State represented by
The Inspector of Police,
Thalayoothu Police Station,
Tirunelveli District,
In Crime No.345 of 2016. : Respondent/Respondent

2.Mariyappan : Respondent/Defacto complainant

PRAYER: Petition is filed under Section 482 of the Criminal Procedure Code to call for records in Spl.S.C.No.13 of 2017 on the file of the learned Mahalir Neethimandram (Mahila Court), Tirunelveli in Crime No.345 of 2016 on the file of the first respondent and to quash the same.

For Petitioner : Mr.A.K.Azagarsami
For Respondents : Mr.K.Anbarasan
Government Advocate(Crl.Side)
for R.1

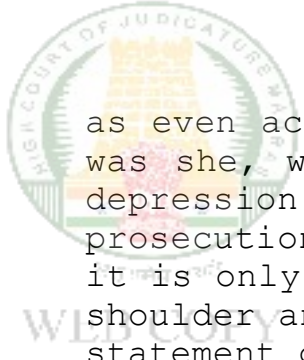
O R D E R

On the complaint lodged by the second respondent, the first respondent registered a case in Cr.No.345 of 2016 on 11.11.2016 and after completing the investigation, has filed charge sheet in Spl.S.C.No.13 of 2017 before the Mahila Court, Tirunelveli against the petitioner, challenging which, the petitioner is before this Court.

2. Heard the learned Counsel appearing for the petitioner and the learned Government Advocate (Crl.Side) appearing for the first respondent.

3. It is the case of the petitioner that the victim girl "X" is a minor and is the daughter of the defacto complainant. It is alleged by the defacto complainant that the accused enticed "X" and took her to a film where he said to have kissed her. It is also alleged that he has put his hand around her shoulder. Hence, the F.I.R and the consequential charge sheet.

<https://hcservices.courts.mdy.in/hcservices/>
4. The learned Counsel appearing for the petitioner contended that the entire prosecution is abuse of process of law in as much



as even according to "X", she was in love with the accused and it was she, who called him for movie, because she was in a state of depression. He also submitted that it is not the case of the prosecution that there was any act of sexual abuse of "X" and that it is only alleged that the petitioner had put his hand around her shoulder and kissed her. The learned Counsel made reliance on the statement given by "X" under Section 164 Cr.P.C.

5. This Court perused the statement. On a reading of the statement, "X" has stated that she came into contact with the petitioner near the bus stand and they continued their friendship through face book. She has also stated that she was in love with the petitioner. While so, she has further stated that the petitioner had taken her for a movie in Chakkaravarthy theatre, where he said to have put his hand around her neck and kissed her.

6. The learned Counsel for the petitioner submitted that this will not attract the provision of Section 7 of the Protection of Children from Sexual Offences Act, 2012.

7. Section 7 of the Protection of Children from Sexual Offences Act, 2012 reads as follows:

"7. Sexual assault: Whoever, with sexual intent touches the vagina, penis, anus or breast of the child or makes the child touch the vagina, penis, anus or breast of such persons or any other person, or does any other Act with sexual intent which involves physical contact without penetration is said to commit sexual assault.".

8. From the above it is clear that the expression of Sexual Act is very wide in its ambit and it will also take into consideration of such contact of the accused perpetrated on a minor girl. When there are prima facie materials in the charge sheet, the same cannot be quashed by exercising power under Section 482 of the Code of Criminal Procedure.

9. In the result, this Criminal Original Petition is devoid of merits and the same is dismissed with liberty to the petitioner to raise all points before the trial Court. Whatever expressed in this petition is only for deciding the present petition and the trial Court shall proceed with the trial without being influenced in any manner by what is observed above. Consequently the connected Miscellaneous Petitions are also dismissed.

Sd/-

Assistant Registrar (CS-II)

/True Copy/



To

1. The Inspector of Police,
Thalayoothu Police Station,
Tirunelveli District.

WEB COPY

2. The Additional Public Prosecutor,
Madurai Bench of Madras High Court,
Madurai.

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