

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 05.04.2018

CORAM:

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

Crl.O.P. No.10253 of 2018 & Crl.M.P. No.5241 of 2018

Sajeesh

Petitioner

vs.

1 The Union Territory of Puducherry
represented by the Inspector of Police
Palloor Police Station
Mahe
Cr. No.23 of 2018

2 Pradeep Kumar

Respondents

Criminal Original Petition filed under Section 482, Cr.P.C. seeking to call for the records relating to the impugned F.I.R. registered in Cr. No.23 of 2016 dated 14.03.2016 on the file of the first respondent police for the alleged offences under Section 12 of the Protection of Children from Sexual Offences Act, 2012 and quash the same.

For petitioner Mr. Prakash Adiapadam

For R1 Mr. D. Bharatha Chakravarthy
Addl. Public Prosecutor (Pondy)

ORDER

This Criminal Original Petition has been preferred seeking to call for the records relating to the F.I.R. registered in Cr. No.23 of 2016 dated 14.03.2016 on the file of the first respondent police for the alleged offences under Section 12 of the Protection of Children from Sexual Offences Act, 2012 (for short "the POCSO Act") and quash the same.

2 On the complaint lodged by Pradeep Kumar, the second respondent herein, the first respondent police registered a case in Cr. No.23 of 2016 on 14.03.2016 under Section 12 of the POCSO Act against an unnamed accused who has been described as Driver of an auto rickshaw bearing Registration No.KL 58 Q 3506. The police took up investigation of the case and identified the auto

rickshaw driver as Sajeesh. This application has been filed by the accused to quash the F.I.R. on the ground that the parties have arrived at an amicable settlement.

3 An offence under the POCSO Act cannot be quashed merely on the ground that the parties have arrived at a compromise. Therefore, this Court directed the accused and the victim party to be present today. Accordingly, the first respondent police have produced the victim and his father.

4 As stated above, the complaint in this case has been given by Pradeep Kumar, the father of the minor boy "X". "X", who is present before this Court, stated that his date of birth is 09.04.2001 and that he is studying Plus Two in Mahe. The allegation in the F.I.R. is that on 14.03.2016, "X" wanted to go from his father's house to his mother's house and while he was walking, the accused, who came in his auto rickshaw, asked "X" as to where he was going. When "X" told him the place, the accused asked him to get into the auto rickshaw. While driving the auto rickshaw, the accused is said to have handed over his mobile phone to "X" asking him to reduce the volume. When "X" took the mobile phone, he saw a porn video being displayed in the mobile screen. So, "X" immediately handed over the mobile phone to the accused. It is further alleged in the complaint that the accused parked the auto rickshaw and urinated in public shamelessly by showing his private part. On seeing this, "X" got down from the auto rickshaw and went by foot to his house. "X" reported this matter to his father Pradeep Kumar, who, in turn, lodged the complaint based on which, the F.I.R. was registered and the accused was arrested and later released on bail. The police have also recorded the Section 164 Cr.P.C. statement of "X", wherein, he has stated the same version to the Magistrate. The parties have filed a joint compromise memo, wherein, they have stated as under:

"Further the pendency of the criminal case causing huge mental agony/pain/distress on us as we are all distance relatives and residing in the same village and we wanted to settle the issue amicably without going into the merits of the case. Hence, with the consent of both victim boy as well as with consent father of the victim boy, the 2nd party herein agreed to withdraw the case in case registered in Cr. No.23 of 2016 dated 14.03.2016 on the file of the Inspector of Police, Palloor Police Station, Mahe, which registered for the alleged offences under Section 12 of the Protection of Children from Sexual Offences Act, 2012. Hence, we most humbly pray that this Hon'ble High Court may be pleased to record our joint compromise affidavit and pass suitable order for quashing of the aforesaid FIR

and thus render justice."

5 This Court questioned "X" in camera and "X" stated that the accused did not do anything other than what he had stated in his statement to the Magistrate. To a pointed question by this Court, "X" stated that the accused did not even touch him, but, merely handed over his mobile phone and thereafter, stopped the auto rickshaw and urinated publicly showing his private part. "X" further stated that his family had decided to bury the hatchet and not to proceed with the case any more as the pendency of the case would further affect his ("X's") studies, etc.

6 In the peculiar facts and circumstances of this case, this Court is of the view that interests of justice will be served if the prosecution is quashed in view of the settlement arrived at between the parties and also bearing in mind, the request made by "X" to this Court to give a quietus to the issue and it is accordingly ordered.

Accordingly, the case in Cr. No.23 of 2016 on the file of the first respondent police is quashed and as a sequel, this Criminal Original Petition stands allowed. Connected CrI.M.P. is closed.

Sd/-
Assistant Registrar(co)

//True Copy//

Sub Assistant Registrar

cad
To

1 The Inspector of Police
Palloor Police Station
Mahe

2 The Public Prosecutor
Madras High Court
Chennai - 600 104

+1cc to M/s.Prakash Adiapadam, Advocate Sr.No.26000

MP(CO)
sm:25.4.2018

CrI.O.P. No.10253 of 2018