

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED :22.10.2018

CORAM

THE HONOURABLE Mr.JUSTICE P.N.PRAKASH

Crl.O.P.No.22330 of 2018

Praveen

..Petitioner

Vs

1.Rajeswari

2.State by

The Inspector of Police,
Veeraganur Police Station,
Salem District.

..Respondents

Prayer:- Criminal Original Petition filed under Section 482 Cr.P.C., to set aside the order passed Crl.M.P.No.1010 of 2018 in C.M.P.No.272 of 2018, dated 03.09.2018 on the file of the Sessions Judge, Mahila Court, Salem.

For Petitioner :Mr.C.Prakasam

For R2 :Mr.M..Prabhavathi

Additional Public Prosecutor

ORDER

This petition has been filed to set aside the order passed in Crl.M.P.No.1010 of 2018 in C.M.P.No.272 of 2018, dated 03.09.2018 on the file of the Sessions Judge, Mahila Court, Salem.

2. On the complaint lodged by Rajeswari, the second respondent police registered a case in Crime No.25 on 24.02.2018

for "girl missing". It is the case of Rajeswari that her daughter Keerthika, born on 13.03.2000 and studying first year in Sakthi Kailash College, went missing from 22.02.2018. During the course of investigation, it came to light that Keerthika was in love with Praveen and she had gone with him. However, the police altered the case and included Sections 3 and 4 of POSCO Act in the FIR and arrested Praveen and secured Keerthika. Keerthika refused to go with her parents and therefore, she was kept in the juvenile home in Salem and later she joined her mother. Praveen was released on bail in Crl.M.P.No.272 of 2018 in Cr.No.25 of 2018 on 12.03.2018 on the orders of the Sessions Judge, Mahila Court, Salem on certain conditions. After his release on bail, Praveen once again took Keerthika and got married to her on 06.04.2018. Therefore, a second FIR has been registered in Crime No.126 of

2018 on 10.09.2018 under Section 363 as against Praveen. Rajeswari, the mother of Keerthika, filed CrI.M.P.No.1010 of 2018 in C.M.P.No.272 of 2018 for cancellation of the bail that was granted to Praveen on the ground that Praveen had violated the bail order by once again abducting Keerthika. After hearing both sides, the learned Sessions Judge, by order dated 03.09.2018, has cancelled the bail that was granted to Praveen, challenging which Praveen is before this Court.

3. Today, Keerthika and Rajeswari are present and they are identified by Mr.D.Sivasakthi, Sub-Inspector of Police, Gangavalli Police Station.

4. Learned counsel for Praveen submitted that the original date of birth of Keerthika as given in the complaint that forms the basis for the registration of the FIR in Crime no.25 of 2018 is 13.03.2000, whereas, Rajeswari has managed to obtain a birth certificate from the municipality which shows the date of birth of Keerthika as 31.03.2001.

5. This Court enquired Keerthika and her mother Rajeswari individually in-camera in order to elicit their views. Keerthika said that after the death of her father, her mother Rajeswari has remarried and she is wanting to give Keerthika in marriage to a person of her choice. However, Rajeswari said that her present husband is a very kind person and that they had no ideas of getting Keerthika married to anyone and that they wanted Keerthika to pursue her studies, whereas, Praveen had taken advantage of her adolescence and had enticed her.

6. On further enquiry, Keerthika produced her Aadhar card, Transfer Certificate and School Certificates, where her date of birth has been given as 13.03.2000. She further stated that she had gone on her own volition with Praveen and had got married to him and that she is living with him now.

7. This Court perused the Section 164 Cr.P.C. statement of Keerthika that has been recorded by the learned Judicial Magistrate-I, Attur on 07.08.2018, in which, she has stated that she is 19 years old and that she had gone on her own with Praveen and had got married to him.

8. On a conspectus of the facts obtaining in this case, it is seen that Praveen was once arrested by the police and was released on bail by the Mahila Court, Salem. Of course, the act of Praveen in taking away Keerthika for the second time and marrying her will no doubt amount to violation of the bail conditions. However, school records show that Keerthika was born on 13.03.2000. Rajeswari produced an Aadhar Card of Keerthika, in which also, the year of birth of Keerthika has been recorded as 2000.

9. In the light of the overwhelming materials on record showing the date of birth of Keerthika as 13.03.2000 and

taking into consideration the fact that Keerthika had gone on her own volition with Praveen, and is now living with him, no useful purpose will be served by canceling the bail. Hence, this petition is allowed and the order dated 03.09.2018 passed by the Sessions Judge, Mahila Court, Salem is set aside.

Sd/-
Deputy Registrar (CS)

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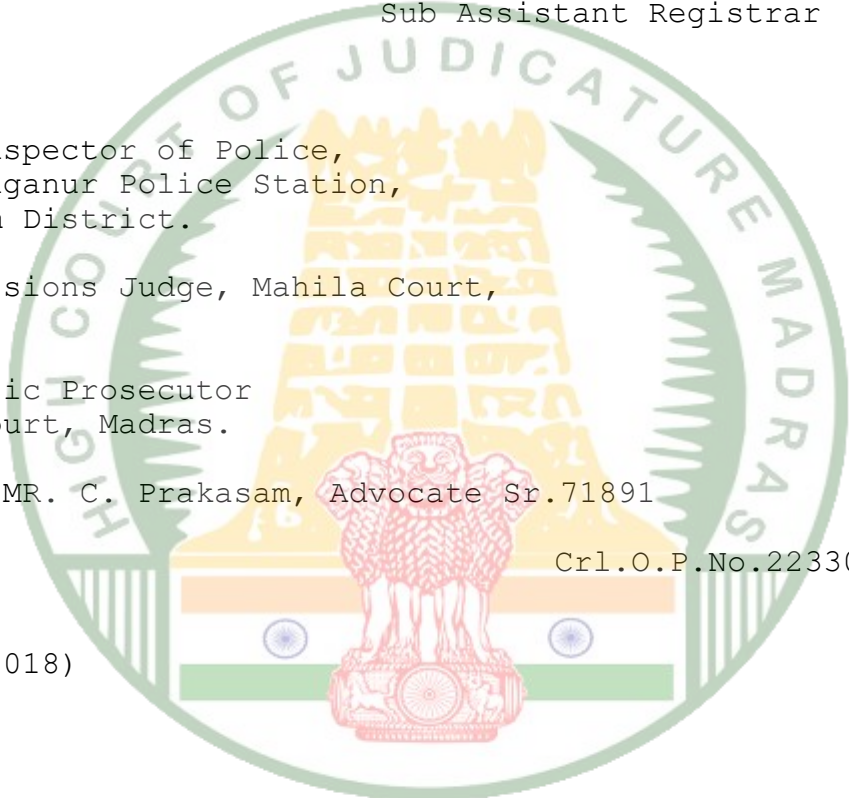
Sub Assistant Registrar

tsg
To

1. The Inspector of Police,
Veeraganur Police Station,
Salem District.
2. The Sessions Judge, Mahila Court,
Salem.
3. The Public Prosecutor
High Court, Madras.
- + 1 cc to MR. C. Prakasam, Advocate Sr.71891

Cr1.O.P.No.22330 of 2018

(CS-DR)
EU (02/11/2018)



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