

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 16.04.2018

CORAM

THE HONOURABLE MR.JUSTICE P.N.PRAKASH

Crl.O.P.No.11426 of 2018

M.Pavithra

...

Petitioner

Vs

The Inspector of Police,
J8, Neelankarai Police Station,
Chennai-600 041.

...

Respondent

Prayer:- Criminal Original Petition filed under Section 482 of the Code of Criminal Procedure to direct the respondent police for alteration of Sections in Crime No.45 of 2018 by including Sections 294(b), 354, 376, 376E, 406 and 417 of IPC and Section 4 of the Tamil Nadu Prohibition of Women Harassment Act against the accused and to file a final report within stipulated period.

For Petitioner :Mr.S.Seenuvasan

For Respondent :Mr.C.Raghavan
Government Advocate (Crl.Side)

ORDER

On the complaint lodged by the petitioner, the respondent police initially registered a petition enquiry in C.S.R.No.1252 of 2017 and thereafter, registered a regular FIR in Crime No.45 of 2018 on 07.01.2018 under Section 406 and 417 of IPC.

2.It is the case of the complainant that she is aged about 23 years and she is working as a Staff Nurse; that she was in love with the accused; that from 2013, he promised that he will marry her and on that promise, he had physical relationship with her; that she conceived thrice and each time, she underwent abortion; that the accused is refusing to marry her. Hence, the accused filed Crl.O.P.No.116 of 2018 for anticipatory bail, in which, this Court by order dated 05.01.2018 referred the parties to Medication Centre. Before the Mediation Centre, the accused has filed an affidavit agreeing to marry the defacto complaint.

It is the case of the defacto complaint that on the basis of the undertaking given by the accused, the marriage was scheduled to be held on 18.03.2018 in the Village of the defacto complainant, but whereas, the Advocate of the accused has sent a Whatsapp message saying that the marriage will be held on 19.03.2018 at Vadapalani. Thereafter, the accused has gone back from the undertaking to marry her. Under such circumstances, the defacto complainant is before this Court for a direction to the respondent police to include Section 376 of IPC in the FIR.

3.Per contra, the learned Government Advocate (Criminal Side) refuted the said submissions.

4.At the outset, this Court cannot issue any direction to the police as to how they should investigate. The Law is fairly settled from the decision of King Emperor v. Khwaja Nazir Ahmad [(1943-44) 71 IA 203] upto the Judgment of the Hon'ble Supreme Court in Shariff Ahmed and others v. State (NCT of Delhi) reported in (2009) 14 SCC 184.

5.It is for the police to conduct the investigation under Chapter XII of the Indian Penal Code and proceed to file a report before the competent Court based on the evidence collected by them during the investigation.

In such view of the matter, this Court cannot issue a direction as prayed for by the petitioner. However, the Assistant Commissioner of Police, Adyar, is directed to monitor the investigation in Crime No.45 of 2018 and during the investigation, if materials are gathered to show that the defacto complainant was subjected to rape, it is needless to state that appropriate alteration report can be filed.

Sd/-

Assistant Registrar(CS IV)

//True copy//

Sub Assistant Registrar

mps

To

1.The Inspector of Police,
J8, Neelankarai Police Station,
Chennai-600 041.

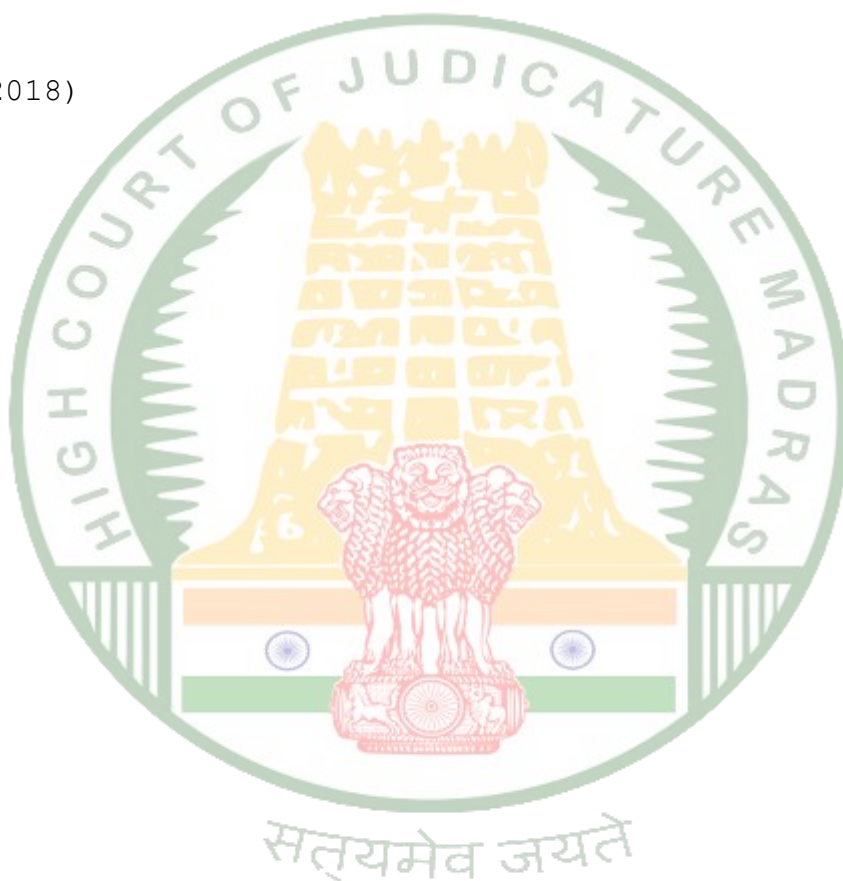
2.The Public Prosecutor,
Madras High Court,
Chennai.

3. The Assistant Commissioner of Police,
Adyar.

+lcc to Mr.S.Seenivasan, Advocate SR.No.28509

Crl.O.P.No.11426 of 2018

PA (CO)
GN(09/05/2018)



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