

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED 10.09.2018

CORAM

THE HONOURABLE Mr.JUSTICE P.RAJAMANICKAM

CRL.O.P.No.21765 of 2018

Kalaivani

...Petitioner

Vs.

- 1.The Superintendent of Police,
Kanchipuram District,
Kanchipuram.
 - 2.The Deputy Superintendent of Police,
O/o.The Deputy Superintendent of Police,
Kanchipuram,
Kachipuram District.
 - 3.The Inspector of Police,
Kanchipuram All women Police Station,
Kanchipuram,
Kanchipuram District.
- ...Respondents

PRAYER: Criminal Original Petition filed under Section 482 of the Code of Criminal Procedure, to direct the third respondent police to alter the section under Sections 493,485,468,471,420 of I.P.C., in the F.I.R. to include Section 376 of I.P.C. in Crime No.1 of 2018.

For Petitioner :Mr.A.Venkatesan
For Respondents :M/s.M.Prabhavathi
Additional Public Prosecutor

सत्यमेव जयते

O R D E R

This petition has been filed by the de-facto complainant to direct the third respondent to alter the section and include Section 376 I.P.C., in Crime No.1 of 2018.

2. The learned counsel for the petitioner has submitted that the accused had sexual intercourse with the petitioner by saying that their marriage has been registered and thereafter, the petitioner has become pregnant and subsequently, the petitioner came to know that the accused has produced only a fake registration certificate and hence, the petitioner has

lodged a complaint before the third respondent. He further submitted that based on the said complaint, the third respondent has registered a case in Crime No.1 of 2018 under Sections 493, 485, 468, 471, 420 of I.P.C. He further submitted that it is a clear case where clause 'Fourthly' of Section 375 IPC is applicable and hence Section 376 I.P.C. also should be included in the FIR.

3. The learned Additional Public Prosecutor has submitted that the complaint does not disclose the offence under Section 376 of I.P.C. and hence, the F.I.R. was not registered under the said section. She further submitted that the petitioner is an adult and she is aged about 25 years and hence, it cannot be said that the accused has committed the rape without her consent.

4. Considering the aforesaid submissions, the third respondent is directed to investigate the matter on the line of the representations submitted by the petitioner and if the investigation reveals that the clause 'Fourthly' of Section 375 IPC also attracted then he has to file the final report including Section 376 IPC also.

5. With the aforesaid observations, this Criminal Original Petition is disposed of.

Sd/-

Assistant Registrar (CS-V)

//True Copy//

Sub Assistant Registrar

vsa/bkn

To

1. The Superintendent of Police,
Kanchipuram District,
Kanchipuram.
2. The Deputy Superintendent of Police,
O/o. The Deputy Superintendent of Police,
Kanchipuram,
Kanchipuram District.
3. The Inspector of Police,
Kanchipuram All women Police Station,
Kanchipuram,
Kanchipuram District.

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

CRL.O.P.No.21765 of 2018

GN(04/10/2018)



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