

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 25.07.2018

C O R A M

THE HONOURABLE MRS.JUSTICE R.HEMALATHA

Cr1.O.P.No.31533 of 2013
and
M.P.Nos.1 and 2 of 2013

F.Robert

... Petitioner/ Accused

Vs.

1.The State represented by
Inspector of Police,
W-7, All Women Police Station
Anna Nagar,
Chennai.
(Crime No.14 of 2012).

2.I.Jothi Mariya Saral

.....Respondents/ Complainant
Defendant/Complainant

PRAYER: Criminal Original Petition filed under Section 482 of Cr.P.C, to call for the records in PRC.No.329 of 2012 pending before the V Metropolitan Magistrate Court at Egmore, Chennai and quash the same as illegal and improper

For Petitioner : Mr.S.Kingston Jerold

For Respondent : Mr.T.Shunmuga Rajeswaran
Government Advocate for R1
Mr.Anbazagan for R2

ORDER

The petitioner is the accused in PRC.No.329/2012 on the file of V Metropolitan Magistrate, Egmore, Chennai, now transferred to the Additional Mahila Court, Alligulam at Egmore in PRC.No.13/2018.

2. The second respondent/defacto complainant lodged a complaint dated 12.09.2012 with the Inspector of Police, W-7, All Women Police Station, Anna Nagar, Chennai, alleging that the petitioner promised to marry her and had sexual inter-course with her as a result of which, she became pregnant and that the said pregnancy was aborted without her consent. According to the second respondent, the petitioner compelled her to terminate the pregnancy and also gave a tablet on 11.06.2012 and forced her to take those tablets. Based on the complaint preferred by the second respondent, the Inspector of Police, W-7, All Women Police Station, Anna Nagar, Chennai, registered a First Information Report in Cr.No.14 of 2012 of W-7, All Women Police Station, and after the investigation, laid a charge sheet before V Metropolitan Magistrate, Egmore.

3. In the present petition, the petitioner has contended that a reading of the First Information Report and the final report would show that the offences punishable under Sections 376 and 318 IPC would not be attracted and that he is innocent and in no way connected with the alleged offences.

4. Mr.S.Kingston Jerold, the learned counsel appearing for the petitioner would contend that since, the defacto complainant had given consent to have sexual inter-course, with her, the petitioner cannot be prosecuted under Section 376 IPC and that the defacto complainant had also married another person. The offences alleged by the prosecution are under Sections 376, 313 and 506(ii) IPC and the case has got to be committed to the Court of Sessions Court. The Sessions Judge, while framing charges can consider all the reports filed on the side of the prosecution.

5. At this stage, this Court cannot conduct any roving enquiry, whether the allegations made in the complaint are true or false.

6. With the above observations, this Criminal Original Petition is dismissed. Consequently, connected Miscellaneous Petitions are closed.

Sd/-

Assistant Registrar(CCC)

//True Copy//

Sub Assistant Registrar

dna

To

1.The Metropolitan Magistrate,
Egmore, Chennai

2.The Additional Mahila Court,
Alligulam, Chennai-3

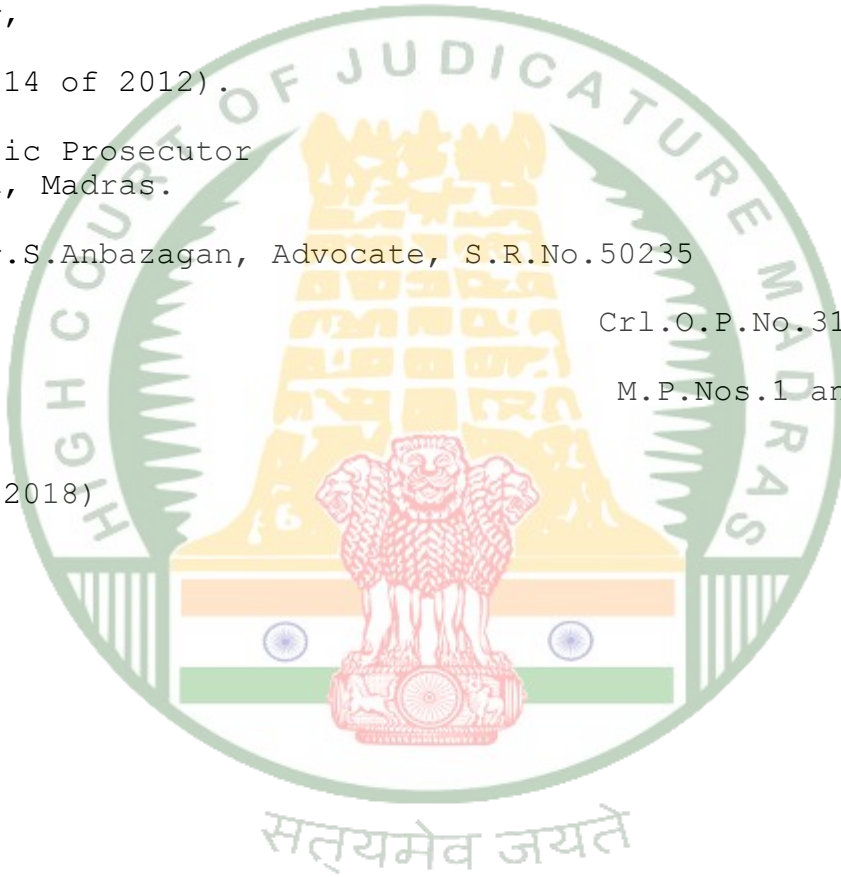
3.The Inspector of Police,
W-7, All Women Police Station
Anna Nagar,
Chennai.
(Crime No.14 of 2012).

4.The Public Prosecutor
High Court, Madras.

+1cc to Mr.S.Anbazagan, Advocate, S.R.No.50235

Crl.O.P.No.31533 of 2013
and
M.P.Nos.1 and 2 of 2013

VGII(CO)
GSP(28/08/2018)



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