

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 24.07.2018

CORAM

THE HONOURABLE Mrs.JUSTICE R.HEMALATHA

CRL.O.P.No.31947 of 2013

and

MP.No.1 of 2013

D.Manikandan

.. Petitioner

Vs

1. Inspector of Police,
W-25, All Women Police Station,
T-Nagar, Chennai-600 017.

2. P.Prema

... Respondents

Criminal Original Petition filed under Section 482 of Cr.P.C., prayed that this Hon'ble Court to call for entire records pertaining to C.C.No.5053 of 2013 (in Crime No.9/2013) on the file of XVII Metropolitan Magistrate Saidapet, and quash the same, as the same is illegal and without jurisdiction.

For Petitioner : Mr.Adinarayanarao

For R1 : Mr.T.Shunmugarajeswaran
Government Advocate
O/o. Public Prosecutor
High Court, Chennai.

For R2 : No Appearance

O R D E R

The petitioner is the accused in C.C.No.5053 of 2013 (in Crime No.9/2013) on the file of XVII Metropolitan Magistrate Saidapet, Chennai. The Inspector of Police, W-25, All Women Police Station, on the basis of the complaint dated 19.05.2013, preferred by the second respondent /defacto complainant, registered FIR Crime No.9 of 2013, and after completion of investigation filed a final report in C.C.No.5053 of 2013 on the file of XVII Metropolitan Magistrate Saidapet, Chennai, for the offences under Section 4 of TNPWH Act & 506 (i) IPC.

2.Mr.Adinarayanarao, learned counsel appearing for the petitioner, would contend that the petitioner is not aged 19 years on the date of the alleged offence as specified by the first respondent and this is clear from the Secondary School leaving certificate of the petitioner, which shows the date of birth as 03.10.1995. He would further contend that the allegations of the defacto compalainant does not fit in with her own complaint and all the allegations levelled against the present petitioner are highly improbable.

3.It is pertinent to point out that at this stage this Court cannot go into truth or otherwise of the allegations made by the defacto complaint. As far as the date of birth of the petitioner is concerned, the learned XVII Metropolitan Magistrate is directed to conduct an enquiry and if the Magistrate finds that the petitioner is a juvenile, he should take appropriate steps by transferring the case to Juvenile Justice Board, in accordance with law.

4.The learned counsel for the petitioner requested to dispense with the personal appearance of the petitioner before the trial Court. Considering the request made by the learned counsel for the petitioner, the personal appearance of the petitioner is dispensed with. However, he should appear before the concerned Magistrate as and when his presence is required.

5.In the result this Criminal Original Petitioner is dismissed. Consequently, connected miscellaneous petition is also closed.

Sd/-
Deputy Registrar

//True Copy//

Sub Assistant Registrar

stm
To

1. Inspector of Police,
W-25, All Women Police Station,
T-Nagar, Chennai-600 017.
2. The XVII Metropolitan Magistrate,
Saidapet, Chennai.

+1cc to Mr.Adinarayanarao, Advocate, S.R.No.50157

Cr1.O.P.No.31947 of 2013

CS/21/08/18