

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 25.06.2019

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THE HONOURABLE MR.JUSTICE N.ANAND VENKATESH

CRL.O.P No.26086 of 2017
and
Crl.M.P.No.15012 of 2017

Miss.E.Bhavani

...Petitioner

Vs.

State of Tamil Nadu,
Represented by its
Sub Inspector of Police,
(Law and Order)
All Women Police Station,
Chengalpet,
Kancheepuram.

...Respondent

PRAYER : Criminal Original Petition filed under Section 482 of Criminal Procedure Code, praying to direct the respondent to reinvestigate the case and register the FIR No.7 of 2016 under Sections 376 and 506(ii) of IPC, 1860 (as amended), read with Section 6 of the Protection of Children from Sexual Offences Act, 2012 (as amended) on the file of the Respondent and file additional final report accordingly.

For Petitioner : Mr. J.Janarthanan

For Respondent : Mr. C.Raghavan
Government Advocate

ORDER

The petition has been filed seeking for a direction to the respondent police to reinvestigate the case in Crime No.7 of 2016.

2. Based on the complaint given by the petitioner, an FIR came to be registered by the respondent police for the offences under Sections 417, 420, 312, 294(b) and 506(i) of IPC.

Investigation was taken up and the final report was filed before the Judicial Magistrate, Uthiramerur and the same was taken on file in C.C No.46 of 2017 for the offences under Sections 417, 420, 312, 294(b) and 506(i) of IPC.

3. The grievance of the petitioner is that the allegations made in the complaint and the materials that were collected in the course of investigation, clearly makes out a case under Section 376 of IPC. This provision has not been added at the time of the filing of the final report.

4. The learned counsel for the petitioner submitted that the petitioner was cheated with a false promise to marry her and the accused person had sexual intercourse with the petitioner. The learned counsel by bringing to the notice of this Court the latest judgment of the Hon'ble Supreme Court in Anuragsoni vs. State of Chhattisgarh reported in 2019 I Madras Law Weekly Notes, Criminal 582 submitted that the offence under Section 376 is clearly made out.

5. The learned Additional Public Prosecutor appearing on behalf of the respondent police submitted that even where the offence under Section 376 IPC has not been added in the final report, that does not require reinvestigation and the Court below always has powers to alter the charges under Section 216 of Cr.P.C based on the materials available on record.

6. This Court has carefully considered the submissions made on either side and the materials placed on record.

7. The grievance expressed by the petitioner is that eventhough the offence of rape under Section 376 of IPC has been made out, the respondent police has not shown the same in the final report. This grievance can be redressed by the concerned Court and it does not require reinvestigation. The Court always has powers under Section 216 of Cr.P.C to alter / add charges at any time before passing of the judgement. If the Court below finds that the materials collected by the respondent police at the time of investigation or the evidence that comes on record at the time of trial, makes out an offence under Section 376 of IPC, the Court below can amend the charge by adding the offence under Section 376 of IPC.

8. In view of the above, the relief as sought for by the petitioner cannot be granted by this Court and it is always left open to the Court below to take a decision regarding the alteration / addition of charges based on the materials available on record.

9. This Criminal Original Petition is disposed of accordingly. Consequently, the connected miscellaneous petition is closed.

Sd/-
Assistant Registrar

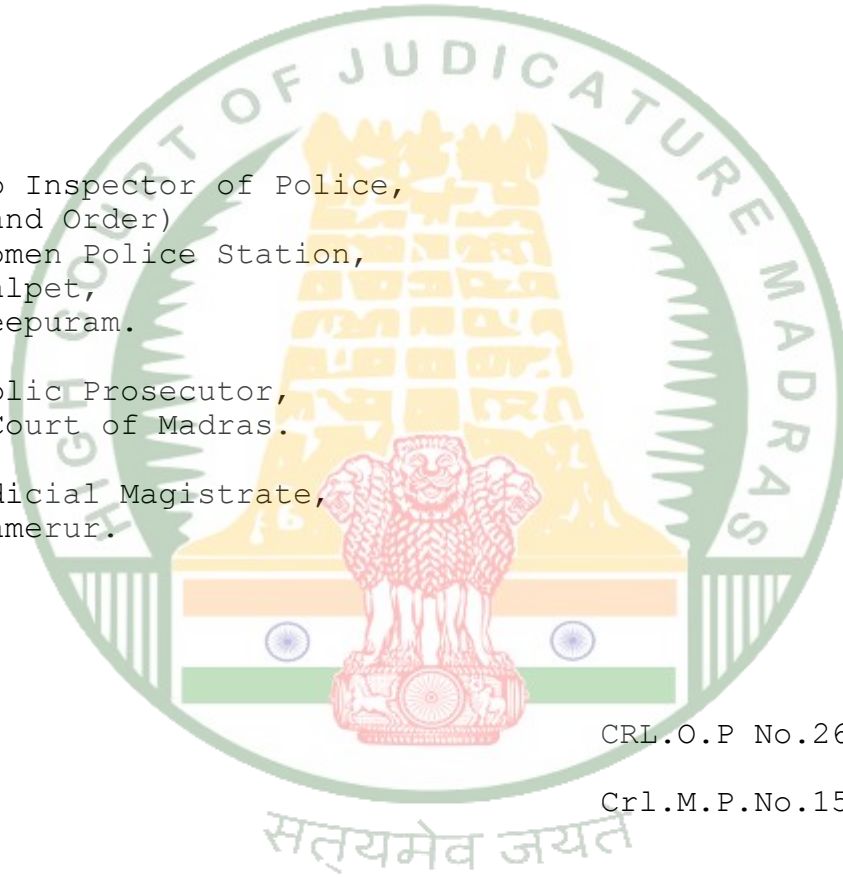
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Sub Assistant Registrar

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To

1. The Sub Inspector of Police,
(Law and Order)
All Women Police Station,
Chengalpet,
Kancheepuram.
2. The Public Prosecutor,
High Court of Madras.
3. The Judicial Magistrate,
Uthiramerur.



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srg 17/07/2019

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