

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 16.06.2020

CORAM:

THE HON'BLE MR.JUSTICE M. NIRMAL KUMAR

CRL.O.P.NO. 8747 of 2020

Ganesan

... Petitioner

Vs.

The State Rep by
The Inspector of Police,
W-15, All Women Police Station,
Royapuram,
Chennai.
(Crime No.2 of 2020).

... Respondent

Prayer : Criminal Original Petition filed under Section 439 Cr.P.C., to enlarge the petitioner on bail in Crime No.2 of 2020 on the file of the respondent police.

For Petitioner : Mr.R.Jayaprakash

For Respondent : Mr.C.Iyyappa Raj

Additional Public Prosecutor

सत्यमेव जयते

ORDER

The Petitioner who was arrested in Crime No.2 of 2020 for the offences under sections 9(m) and 10 of the Protection of Child from Sexual Offences Act,

2012, on the file of the respondent police, seeks bail.

2. The case of the prosecution is that the petitioner has misbehaved with the daughter of the defacto complainant who is 9 years old. The petitioner is the paternal uncle of the defacto complainant, estranged husband. There was a matrimonial dispute between the defacto complainant and her husband which ended up in divorce by mutual consent. The judgment was delivered on 09.03.2020 and it was uploaded in the website on 03.06.2020. During interim period, the victim had gone to meet her father, at that time the petitioner is said to have hugged with a ulterior motive. Hence the case came to be registered.

3. The contention of the petitioner is that the petitioner is a grandfather by relationship to the victim. There had been difference of opinion between the defacto complainant and her husband. The petitioner being the maternal uncle of her husband, the defacto complainant assumed that the petitioner is the reason for their divorce and falsely implicated the petitioner.

4. The learned Additional Public Prosecutor has submitted that during investigation, it is found that the allegations made by the defacto complainant is clouded with mystery creates serious doubt which have to be verified. Further, the 164 Crpc statement of the victim is to be recorded only on 18.06.2020. There is a matrimonial dispute between the defacto complainant and her husband. During the hearing, the affidavit of N.Anitha, the defacto complainant was produced.

5. On perusal of the affidavit, it is seen that the defacto complainant and her husband Jayendhiran got separated due to unavoidable reasons and the matrimonial life was broken and they filed HMOP.No.3836 of 2019 before the III Additional Family Court at Chennai for divorce, by mutual consent. The divorce was granted on 09.03.2020 and it was uploaded in the website only on 03.06.2020. The defacto complainant was recently watched a movie on television 04.06.2020, at the time, the victim had expressed to her that the petitioner had hugged her, when the victim had gone to meet her father during the first week of May 2020, taking offensive for the same, the complaint came to be lodged. Now, the defacto complainant realized it was only a fatherly hug by the petitioner and the complaint was given by mistake and misconception.

6. Considering the submissions and facts and circumstances of the case, this Court is inclined to grant bail to the petitioner subject to the following conditions:

(a) the Petitioner shall deposit a sum of Rs.10,000/- (Rupees Ten Thousand only) to the Cancer Institute (WIA), (Regional Cancer Centre), Adyar, Chennai – 600 020 (Bank: Andhra Bank, Madhya Kailash, SB A/C No.149710011005477), and on such deposit, the Petitioner is ordered to be released on bail on executing his own bond for a sum of Rs.10,000/- (Rupees Ten Thousand only) before the Superintendent of the concerned prison, in which the Petitioner has been confined on his release;

(b) the petitioner shall execute two sureties for a sum of Rs.10,000/- (Rupees ten thousand only) each, before the concerned Magistrate within a period of 15 days from the date of lifting of lockdown and commencement of regular functioning of Court below, failing which the bail granted by this Court shall stand dismissed automatically;

(c) the sureties shall affix their photographs and Left Thumb Impression in the surety bond and the learned Magistrate may obtain a copy of their Aadhar Card or Bank Pass Book to ensure their identity;

(d) the Petitioner shall report before the Respondent Police as and when required for interrogation.

(e) the Petitioner shall not commit any offences of similar nature;

(f) the Petitioner shall not abscond either during investigation or trial;

(g) the Petitioners shall not tamper with evidence or witness either during investigation or trial;

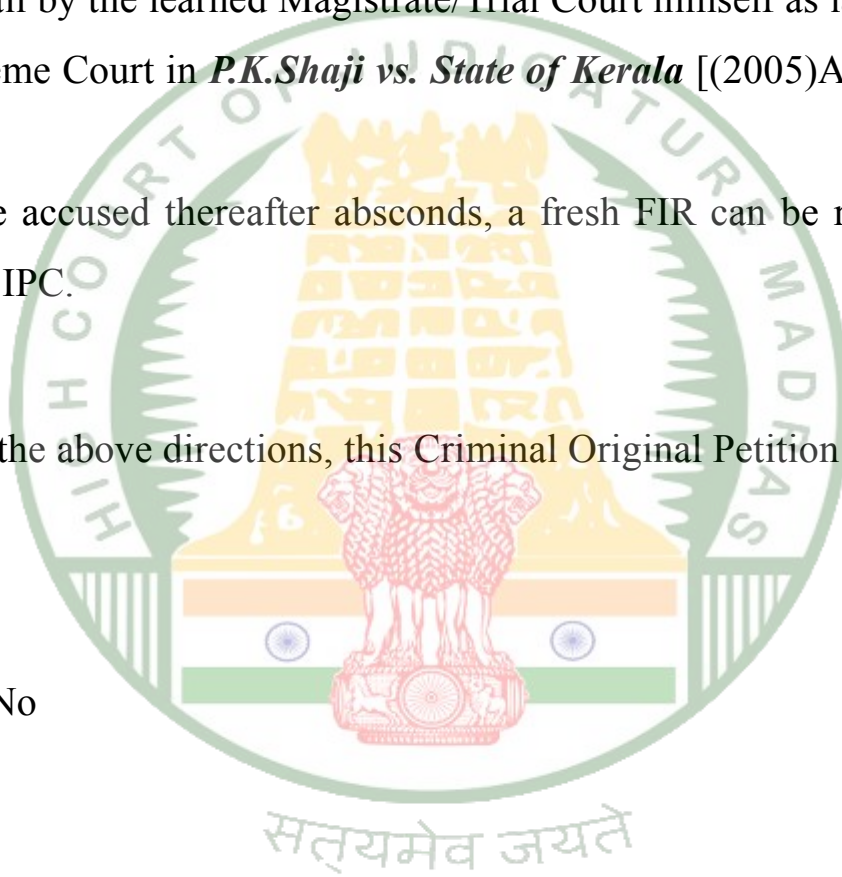
(h) on breach of any of the aforesaid conditions, the learned Judicial Magistrate/Trial Court is entitled to take appropriate action against the Petitioner in accordance with law as if the conditions have been imposed and the Petitioner released on bail by the learned Magistrate/Trial Court himself as laid down by the Hon'ble Supreme Court in ***P.K.Shaji vs. State of Kerala*** [(2005)AIR SCW 5560]; and

(i) if the accused thereafter absconds, a fresh FIR can be registered under Section 229A IPC.

7. With the above directions, this Criminal Original Petition is ordered.

16.06.2020

Internet: Yes/No
mfa



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To

- 1.The Judicial Magistrate,
Mahila Court,
Chennai.
- 2.The Inspector of Police,
W-15, All Women Police Station,
Royapuram,
Chennai.
- 3.The Public Prosecutor,
High Court, Madras.

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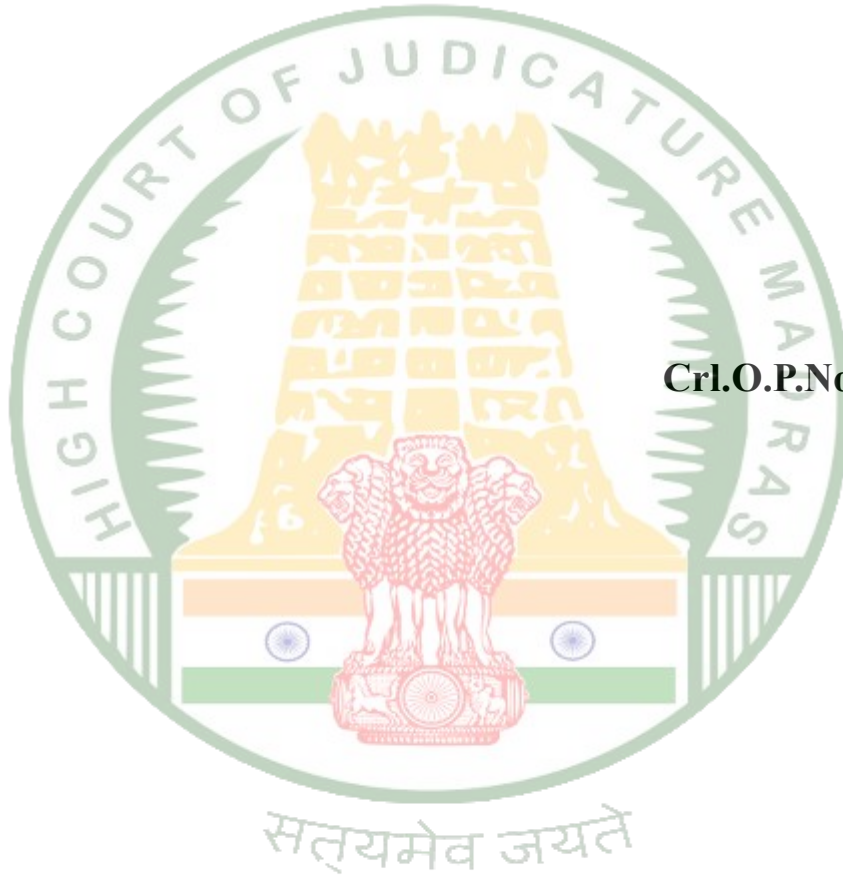
The Superintendent,
Sub Jail,
Madurandhakam.



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M.NIRMAL KUMAR.,J.

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