

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 04.11.2020

CORAM

THE HONOURABLE MR. JUSTICE R.PONGIAPPAN

CrI.O.P No.27446 of 2019
and CrI.M.P.No.14602 of 2019

M.Kathirvel ... Petitioner/Accused

Vs.

1.The Inspector of Police,
W-32, All Women Police Station Madipakkam,
Madippakam, Chennai - 600 100. ...Respondent/Complainant

2.R.Shanthi ...Respondent/Defacto
Complainant

PRAYER: Criminal Original Petition filed under Section 482 of the Code of Criminal Procedure to call for the records relating to the F.I.R. in Crime No.11 of 2018 pending on the file of the first respondent and quash the same.

For Petitioner : Mr.D.Jaganathan

For 1st Respondent : Mr.S.Karthikeyan
Additional Public Prosecutor

For 2nd Respondent : No appearance

O R D E R

The present Criminal Original Petition has been filed seeking a relief to quash the F.I.R. registered in Crime No.11 of 2018 pending on the file of the first respondent police as illegal.

2. Heard the learned counsel appearing for the petitioner and the learned Additional Public Prosecutor appearing for the first respondent police.

3. The petitioner herein is the sole accused in Crime No.11 of 2018 pending on the file of the first respondent. In respect of the relief sought for by the petitioner, on going through the averment found in the F.I.R., it appears that during the relevant point of time, the petitioner made physical contact with one Sarala and resultantly, she has given birth to one male child. Only for the said occurrence, the present F.I.R. is registered against the petitioner.

4. The averment found in the F.I.R., clearly discloses a cognizable offence. In otherwise, whether the petitioner herein committed the offence as alleged by the defacto complainant is true or not has to be decided only after examining the victim girl. Further, in this occasion, it is necessary to see the judgment of the Hon'ble Supreme Court in the case of *Sau. Kamal Shivaji Pokarnekhar Vs. The State of Maharashtra and Ors*, wherein, it was observed as follows:-

"9. A perusal of the complaint discloses that prima facie, offences that are alleged against the respondents. The correctness or otherwise of the said allegations has to be decided only in the Trial. At the initial state of issuance of process it is not open to the Courts to stifle the proceedings by entering into the merits of the contentions made on behalf of the accused. Criminal complaints cannot be quashed only on the ground that the allegations made therein appear to be of a civil nature. If the ingredients of the offence alleged against accused are prima facie made out in the complaint, the criminal proceedings shall not be interdicted."

5. Now applying the said ratio laid down by the Hon'ble Supreme Court to the case on hand, the correctness of the allegation made by the defacto complainant has to be decided only in the trial. Therefore, the ground raised by the petitioner for allowing this petition is devoid of merits. However, since the petition mentioned offence has happened in the year 2018, it would be appropriate to direct the first respondent to complete the investigation and final a final report within a stipulated time.

6. Accordingly, the first respondent police is directed to complete the investigation and file a final report within a period of two months from the date of receipt of a copy of this order.

With the above direction, the Criminal Original Petition is dismissed. Consequently, connected miscellaneous petition is closed.

Sd/-
Assistant Registrar

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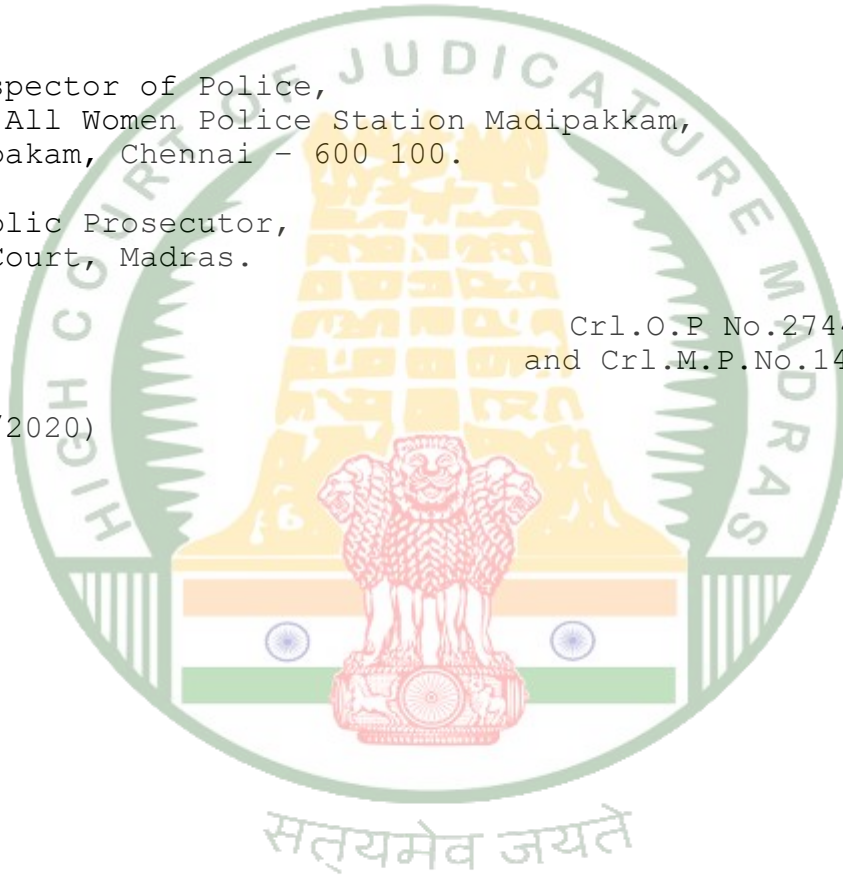
Sub Assistant Registrar

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To

1. The Inspector of Police,
W-32, All Women Police Station Madipakkam,
Madippakam, Chennai - 600 100.
2. The Public Prosecutor,
High Court, Madras.

Crl.O.P No.27446 of 2019
and Crl.M.P.No.14602 of 2019

NR (CO)
RMP (08/12/2020)



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