



BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

DATED: 10.09.2020

CORAM:

THE HONOURABLE MR.JUSTICE R.PONGIAPPAN

Crl.O.P.[MD]No.9601 of 2020

Sorna

... Petitioner/Defacto Complainant

Vs.

1.The Superintendant of Police,
Nagercoil, Kanyakumari District.

2.The State rep. by
The Inspector of Police,
All Women Police Station,
Nagercoil, Kanyakumari District.
(in Crime No.34 of 2020)

...Respondents

PRAYER : Criminal Original Petition is filed under Section 482 of Cr.P.C, to direct the first respondent to transfer the investigation in Crime No.34 of 2020 pending on the file of the second respondent to some other Competent Officer for investigation and further direct him to complete the investigation and file a final report within a stipulated time.

For Petitioner : Mr.L.George Paul Anto

For Respondents : Mr.S.Chandrasekar

Additional Public Prosecutor

O R D E R

The Criminal Original Petition has been filed seeking a direction to direct the first respondent to withdraw the investigation made in Crime No.34 of 2020 pending on the file of the second respondent and to entrust the same to some other Competent Officer for investigation and further direct him to complete the investigation and file a final report within a stipulated time.

2.The learned counsel for the petitioner would submit that though the case has been registered immediately after the occurrence, the second respondent did not follow the procedure contemplated under Chapter XII of the Code of Criminal Procedure. After securing the victim, she has been sent to the medical examination and the accused has not been sent to the medical examination. Therefore, the petitioner has suspect over the investigation conducted by the second respondent. Hence, the petitioner prayed to change the Investigation Officer.

3.Per contra, the learned Additional Public Prosecutor appearing for the respondents, on instructions, would submit that



when at the time of registering the case, the case has been registered in Crime No.34 of 2020 for the offence punishable under Section 366 of I.P.C. Subsequently, during the time of investigation, the section of law has been altered into Section 366(a) of I.P.C and Section 3(a), 4 and 17 of POCSO Act. Further, after securing the victim girl, she was produced before the medical officer and consequently, handed over to the de facto complainant, who is the mother of the victim girl. The accused in the present case has been secured only on 08.09.2020 and the Investigation Officer has taken steps to produce him before the medical officer.

4.Upon considering the arguments advanced by either side, for deciding the issue involved in this application, it is relevant to see the date on which the alleged First Information Report has been registered by the second respondent. Only on 17.08.2020, the present First Information Report has been registered and thereafter, within a period of 20 days, the victim girl and the main accused were also secured. More than that, the Investigation Officer by following the procedure laid down in Chapter XII of the Code of Criminal procedure and also by following the Police Standing Orders, has taken steps to produce the accused before the medical Officer. Therefore, the action taken by the second respondent made clear that the investigation in Crime No.34 of 2020 is proceeded only in accordance with law. Though the alleged offence is serious one, it cannot be said that the second respondent has conducted the investigation in the phased manner. Therefore, the allegation levelled by the petitioner against the second respondent is not substantiate through relevant document.

5.In view of the above, the prayer sought for by the petitioner to transfer the investigation, cannot be entertained at this stage. However considering the nature of the offence committed by the accused, the second respondent police is directed to complete the enquiry within a period of three months from the date of receipt of a copy of this order without fail.

6.With the above directions, this Criminal Original Petition is disposed of. No costs.

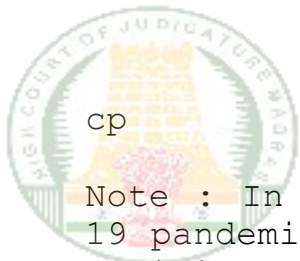
Sd/-

Assistant Registrar (RECORDS)

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Sub Assistant Registrar (CS)



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Note : In view of the present lock down owing to COVID-19 pandemic, a web copy of the order may be utilized for official purposes, but, ensuring that the copy of the order that is presented is the correct copy, shall be the responsibility of the advocate/litigant concerned.

To:

- 1.The Superintendant of Police,
Nagercoil,
Kanyakumari District.
- 2.The Inspector of Police,
All Women Police Station,
Nagercoil,
Kanyakumari District.
- 3.The Additional Public Prosecutor,
Madurai Bench of Madras High Court,
Madurai.

+1 CC to Mr.L.GEORGE PAUL ANTO, Advocate (SR-16699[F] dated 11/09/2020)

Crl.O.P.[MD]No.9601 of 2020
10.09.2020

AVS (CO)
KM (23.09.2020) 3P 5C