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IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 22.10.2021

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THE HON'BLE MS. JUSTICE R.N.MANJULA

Cr1.O.P.No.2185 of 2019
and Cr1.M.P.No.1419 of 2019

Selvakumar Petitioner/Sole Accused

Vs.

1.State rep. by
The Inspector of Police,
Vellore North Police Station,
Vellore.
(Crime No.95 of 2018) Respondent/Complainant

2.Lakshmi Respondent/Defacto Complainant

Prayer:- This Criminal Original Petition is filed under Section 482 of Cr.P.C., to call for the records pertaining to the proceedings in Spl.S.C.No.122 of 2018 on the file of the learned Mahila Court, Vellore against the Crime No.95 of 2018 dated 27.02.2018 on the file of the first respondent Police and quash the same.

For Petitioner : Mr.S.Seenurasan

For Respondent : Mrs.G.V.Kasthuri for R1
Additional Public Prosecutor
R2- No Appearance

ORDER

(Heard through Video Conferencing)

This Criminal Original Petition is filed calling for the records pertaining to the proceedings in Spl.S.C.No.122 of 2018 on the file of the learned Mahila Court, Vellore against the Crime No.95 of 2018 dated 27.02.2018 on the file of the first respondent Police and quash the same.



2. The defacto complainant and the petitioner/sole accused were in friendly terms. The defacto complainant is a widow and the petitioner was giving a moral support to her. The defacto complainant has two daughters. The victim girl is the second daughter of the defacto complainant.

3. It is the submission of the learned counsel for the petitioner that due to some family dispute between the petitioner and the defacto complainant, he has been falsely implicated in this case and the defacto complainant herself has filed an affidavit before the trial Court, during the bail proceedings by stating that the petitioner is not involved in any offence.

3.1 The learned counsel for the petitioner also invited the attention of this Court to the 164 Cr.P.C. statement of the victim child wherein, she refers the petitioner as her father and stated that the petitioner has not committed any offence as alleged in the complaint.

4. The learned Additional Public Prosecutor has submitted that this is a serious case filed under the POCSO Act on the complaint given by the mother of the victim child. It is further submitted that the victim child has called the Police repeatedly for help, on the day of occurrence and now the petitioner had influenced the defacto complainant and the victim child to give statements in his favour.

5. On perusal of the records and more specifically the complaint, it is seen that the defacto complainant has alleged that on 11.02.2018, the petitioner called her and told that she would take the victim child with him to an outstation and get her back to home in the evening. As assured, the victim child was not brought back in the evening but at about 1 am, the Police called the defacto complainant and told her that they received calls from the victim child that the petitioner is trying to misbehave with her in a room of a lodge at Vellore and thereafter, at about 3 am, the Police called her again and told her that the victim girl was recovered. The defacto complainant went to the Police Station and then enquired the victim child about the occurrence. On knowing the sexual assault caused by the petitioner by confining her in a room of a lodge at Vellore, the defacto complainant has given the complaint.



6. It is to be noted that the petitioner is a Police Officer. He is already married and his relationship with a defacto complainant is an extra-marital affair. On making use of his proximity with the family of the defacto complainant, the petitioner took advantage by taking her daughter with him and committed the offence. The defacto complainant and the victim child are not strangers to the petitioner and he is already known to them. The occurrence is said to have taken place in some strange place outside the house of the defacto complainant and it is the victim girl who alerted the Police by making several calls and reported them about the sexual harassment suffered by her on the alleged day of the occurrence and later she was rescued.

7. The 161 Cr.P.C statements of the victim child and the defacto complainant have got prima facie materials to file the charge sheet against the accused for the offences mentioned in this case. Apart from the statements of the defacto complainant and the victim child, the statement of the hotel receptionist is also available to substantiate the fact that the petitioner had taken a room at the lodge on the relevant day. The defacto complainant has filed an affidavit in support of the accused during the bail proceedings. The above acts of the defacto complainant is unusual and pre-supposes some undue influence. So the conduct of the petitioner for influencing the defacto complainant to file an affidavit during the bail proceedings itself would show that he was exerting pressure and influence on the defacto complainant and the victim child to detract from her earlier statements.

8. The victim girl is said to have been examined and her evidence is already on record. In such circumstances, it is open to the petitioner/accused to conduct the case itself and discharge his burden of proving his innocence. The repeated phone calls made by the victim child during the wee hours at the time of occurrence and the statement of the incharge of the lodge etc., are all prima facie materials to make out this case and other factual matter raised by the petitioner can only be dealt by the trial Court by looking into all the evidence produced during the trial. In such view of the matter, I do not find any merit in this petition.

Accordingly, this Criminal Original Original Petition is



dismissed. However, the petitioner is at liberty to take up all his grounds as defence before the trial Court and contest the case. Connected criminal miscellaneous petition is closed.

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Sd/-
Assistant Registrar

//True Copy//

Sub Assistant Registrar

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To

1.The Mahila Court,
Vellore.

2.The Inspector of Police,
Vellore North Police Station,
Vellore.

3.The Public Prosecutor.
High Court, Madras.

Cr1.0.P.No.2185 of 2019

NK(CO)
SB(10/11/2021)