

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 22.04.2021

CORAM:

THE HONOURABLE MR. JUSTICE M.NIRMAL KUMAR

Cr1.O.P.No.6953 of 2021

K.Senthil Kumar

...Petitioner

Vs.

1.State Rep. by Inspector of Police,
Cuddalore OT Police Station,
Cuddalore District.
[F.I.R. No.638/2020]

2.Amutha

...Respondents

PRAYER: Criminal Original Petition filed under Section 482 Cr.P.C., to call for the records relating to the Crime No.638 of 2020 on the file of the 1st respondent police and quash the same as far as the petitioner is concerned.

For Petitioner : Mr.C.Gunasekaran

For R1 : Mr.M.Mohamed Riyaz,
Additional Government Pleader

For R2 : Mr.I.Abrar Md Abdullah

ORDER

This Criminal Original Petition has been filed to call for the records relating to the Crime No.638 of 2020 on the file of the 1st respondent police and quash the same as far as the petitioner is concerned.

2.The petitioner is an accused in Crime No.638 of 2020. Initially the case has been registered for girl missing and later altered to Sections 366, Section 5(1) r/w 6 of POCSO Act, on 18.07.2020. Thereafter again altered to Sections 451, 366, 344 of IPC and Section 6 r/w 5(1), 6 of POCSO Act, on 15.09.2020.

3.The gist of the case is the that on 19.06.2020, the defacto complainant viz., Amutha, mother of the victim girl had lodged a complaint stating that her daughter aged about 17

years, studied 12 standard was working Udhayam Shopping and whose has to go at 08.30 in the morning and return back at 08.00 p.m. On 18.06.2020, as she has left for the job and she has not returned back, thereafter, the girl missing case was registered. The victim girl was secured on 18.06.2020. After recording her statement the case was altered. Finally, the petitioner was found to be the reason, he has enticed the minor girl and kidnapped her and the victim was subjected to penetrative sexual assault by the petitioner. Hence, the case was altered and investigation progressed.

4.The contention of the learned counsel appearing for the petitioner is that now the petitioner and the victim girl were neighbours known to each other and they were in friendly terms. It was the victim girl who had forced to have a relationship with the petitioner. Thereafter, the victim girl informed that she was interested to pursue her higher studies and her parents are not willing for the same and she had some mental disturbances and she wanted a change of place to get out of her dejection. Hence, the petitioner was forced to accompany her. Otherwise she would commit suicide, to save the life of the victim girl the petitioner accompanied the victim girl. Thereafter, the victim girl came to know that a case has been registered and they were in search of them. The victim girl had appeared before the respondent police. The petitioner, defacto complainant i.e. the mother of the victim girl and the victim girl had filed an affidavit before this court and confirmed about the compromise affidavit filed by them.

5.The defacto complainant submitted that after enquiry of the victim girl, she came to know about the truth and at the instance of the victim girl, the petitioner had forced to accompany her and now the victim girl was very much interested to pursue her higher studies and she had taken steps to continue her daughter's higher education. The victim girl confirmed her mothers statement and she is now focused only on her studies and she has also become a major and she is very firm about her future course of life. Both the defacto complainant and the victim girl were in one voice and stated that they are not having interest in further pursuing the complaint and the victim girl is now focus only on her higher education and steps have been taken in this direction.

6.The defacto complainant further submitted that she is an uneducated lady and the age certificate of the victim girl is not available and the victim girl is taken to the school and the school authorities have entered the age of the victim girl in the school records as per the requirement. The victim girl is now a major.

7.The petitioner had filed his affidavit stating that he was forced to accompany the victim girl and now the victim girl and the defacto complainant had come to know about the

truth and realized the fact and now both have agreed and decided not to further pursue the complaint. Further he relied upon the decision of this Court in the case of Vijayalakshmi and another /Vs./ State Rep. by the Inspector of Police and Another reported in (2012) 2 CTC 191 and prayed to allow the quash petition.

8.The learned Additional Government Pleader appearing for the first respondent submitted that the defacto complainant and the victim girl and the petitioner have entered into an agreement and have filed a compromise memo and the same have been verified and confirmed. In view of the specific allegation made against the petitioner, the compromise memo cannot be considered. Since the defacto complainant and the petitioner have taken such a stand which would be an aroused thought for the prosecution to prove the case.

9.Considering the submissions and on perusal of the materials and on the enquiry made with the defacto complainant, victim girl and the petitioner, this court feels that the proceedings as against the petitioner herein in Cr.No.638 of 2020 deserves to be quashed.

10.In view of the same, this Criminal Original Petition stands allowed and the proceedings as against the petitioner herein in Cr.No.638 of 2020 is quashed.

Sd/-
Assistant Registrar(CS-VII)

//True copy//

Sub Assistant Registrar

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To

1.The Inspector of Police,
Cuddalore OT Police Station,
Cuddalore District.

2.The Public Prosecutor,
High Court of Madras,
Madras.

+lcc to Mr.I.Abrar Md Abdullah, Advocate SR.No.24816

Cr1.O.P.No.6953 of 2021

RK(CO)

GMV(07/07/2021)

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