



IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 13.07.2021

CORAM:

THE HON'BLE MR.JUSTICE M.NIRMAL KUMAR

CRL.O.P.No.11969 of 2021

and

Crl.M.P.Nos.6766 & 6767 of 2021

B.Nagaraj
S/o, Balasundaram

... Petitioner

Versus

1. State rep by
The Inspector of Police,
W-16, All Women's Police Station,
Pulianthope,
Chennai -12.

2. D.Maheshwari,
D/o, Devan

... Respondents

PRAYER: Criminal Original Petition filed under Section 482 of the Code of Criminal Procedure, to call for the original records and quash the final report in P.R.C.No.3 of 2021 pending on the file of the Additional Mahila Metropolitan Magistrate, Egmore.

For Petitioner : Mr.J.Jawahar

For R1 : Mr.E.Raj Thilak
Government Advocate (Criminal Side)

ORDER

This Criminal Original Petition has been filed by the petitioner to call for the original records and quash the final report in P.R.C.No.3 of 2021 pending on the file of the Additional Mahila Metropolitan Magistrate, Egmore.

2. The contention of the petitioner is that the defacto complainant occupied the house of the petitioner as a tenant and they became friends and thereafter there was a good relationship between the defacto complainant and the petitioner and later she had approached the petitioner for marriage which was rejected by the parents of the petitioner. The petitioner got engaged with another girl. Despite knowing the same, the defacto complainant had physical relationship with the petitioner and there is no material produced to substantiate the case. It is only on imaginary story the



entire case rests on the statement of the defacto complainant. Hence prayed for quashing petition.

3. The Public Prosecutor submitted that Maheswari, the victim girl had lodged a complaint on 31.01.2019 and in the complaint she had clearly stated about the relationship between the petitioner and the defacto complainant. On 25.01.2019 at the terrace of the house, she was forcibly raped by the petitioner on the promise that he would marry her. Further when the defacto complainant had approached his parents for marriage, his parents refused for the same. The petitioner on the false promise of marrying the defacto complainant had physical relationship with her and cheated her. Hence the complaint.

4. Further the learned counsel for the petitioner submitted that the physical relationship between them is a consensual one and it would not attract the offence of rape.

5. Further in this case, it is seen from the complaint itself that the complaint received on 31.09.2019 at about 9.30 am at Government Hospital, Kilpauk, based on which, a case has been registered. The defacto complainant attempted to commit suicide by consuming poison, due to the act of the petitioner. After registration of the complaint, the respondent police taken up investigation and examined the witnesses, visited the scene of occurrence and recorded the statement of L.W.1 to 16. L.W.1 is the victim girl. L.W.2 mother of the victim girl. L.W.3 sister of the victim girl. L.W.4 sister's husband. L.W.5 is a neighbour and L.W.1 to 5 have clearly stated about the act of the petitioner and the relationship of the petitioner with the victim girl and the medical treatment taken by the victim girl and other facts. L.W.6 is the Inspector who had visited the scene of occurrence. L.W.7 is the independent witness who attested the observation mahazar. L.W.8 is the doctor who examined the victim girl and also the accused. The evidence and report of the doctor confirm the case of the prosecution. L.W.10 is the Investigating Officer who conducted the investigation and filed the final report.

6. Considering the submissions, it is seen that the points raised are factual in nature which have to be decided only during trial. Therefore, quashing of final report in P.R.C.No.3 of 2021 does not arise. The Criminal Original Petition stands dismissed accordingly. Consequently, connected miscellaneous petitions are closed.

Sd/-
Assistant Registrar

//True copy//



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To

1. The Additional Mahila Metropolitan Magistrate,
Egmore.
2. The Inspector of Police,
W-16, All Women's Police Station,
Pulianthope,
Chennai -12.
3. The Public Prosecutor,
High Court,
Madras.

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SS (CO)
GMY (02/08/2021)