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IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 10.06.2021

CORAM:

THE HONOURABLE MR. JUSTICE G.K.ILANTHIRAIYAN

Crl.O.P.No.10165 of 2021

Sai Bharathy (minor)
Rep by her Father,
S.Essakimuthu

... Petitioner

Vs.

The State rep by
Rep by its Inspector of Police,
North Beach Police Station,
Flower Bazaar, Chennai.
(Crime No.125 of 2021)

... Respondent

PRAYER: Criminal Original Petition filed under Section 482 Cr.P.C., to direct the respondent to alter/include the Sections 11 and 12 of the Protection of Children from Sexual Offences Act, 2012 and Section 4 of Women Harassment Act, 2002 read with Sections 307, 441, 442, 447, 448 of the Indian Penal Code, 1860 in Crime No.125 of 2021 dated 24.04.2021.

For Petitioner : Mr.K.Suthan

For Respondent : Mr.A.Damodaran,
Government Advocate (Crl. side)

O R D E R

This petition has been filed seeking direction to the respondent to alter/include the Sections 11 and 12 of the Protection of Children from Sexual Offences Act, 2012 and Section 4 of Women Harassment Act, 2002 read with Sections 307, 441, 442, 447 and 448 of the Indian Penal Code, 1860 in Crime No.125 of 2021 dated 24.04.2021.

2. Heard the learned counsel for the petitioner as well as the learned Government Advocate (Crl.Side) appearing for the respondent.

3. It is seen that the petitioner was permitted by the accused in Crime No.125 of 2021 for short accommodation as tenant in his house. Utilizing the said opportunity, the



petitioner and her parents trespassed into the second floor and also damaged the entire building. Therefore, the accused in Crime No.125 of 2021 lodged a complaint as against the petitioner and her parents. The respondent registered a case in Crime No.1731 of 2020 for the offences under Sections 147, 294 (b), 323, 379, 427, 448, 120-B and 506(ii) of IPC and also registered another case in Crime No.92 of 2021 for the offences under Sections 294(b), 427 and 506 (ii) of IPC as against petitioner and her parents. Under these circumstances, now the petitioner filed this petition to include the offences under Sections 11 and 12 of the Protection of Children from Sexual Offences Act, 2012 and Section 4 of the Tamil Nadu Prohibition of Harassment of Women Act, 2002 r/w. Sections 307, 441, 442, 447 and 448 of IPC.

4. It is nothing but clear abuse of process of law and this petition was filed only to harass the de-facto complainant in the above both Crimes. In fact, now the respondent completed the investigation in Crime No.125 of 2021 and filed a final report and the same has been taken on file. Therefore, the prayer sought for by the petitioner cannot be granted.

5. Moreover, at the instance of the petitioner against whom the accused in Crime No.125 of 2011 has given a complaint, inclusion or exclusion to certain offences in the case registered by the respondent police cannot be granted. This is well settled legal position enunciated in the oft quoted decision of the Hon'ble Supreme Court of India in Reeta Nag -vs- State of West Bengal reported in 2010 Cr1.L.J.224 5 (SC).

6. Accordingly, this Criminal Original Petition is dismissed.

Sd/-
Assistant Registrar(CS VII)

//True Copy//

Sub Assistant Registrar

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To

1. The Inspector of Police,
North Beach Police Station,
Flower Bazaar, Chennai.



2.The Public Prosecutor,
High Court, Madras.

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srg 19/07/2021