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IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 13.08.2021

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THE HONOURABLE MR.JUSTICE M.NIRMAL KUMAR

Cr1.O.P.No.13820 of 2021

Shaik Rahaman @ Abdul Rahaman

... Petitioner/ Petitioner

Vs.

State Represented by
The Inspector of Police,
T-14, Mangadu Police Station,
Chennai,
[Crime No.674 of 2021]

... Respondent/ Respondent

PRAYER: Criminal Original Petition is filed under Section 482 of the Code of Criminal Procedure, to set aside the return endorsement dated 27.07.2021 in G.No.163 of 2021 on the file of the Sessions Judge, Special Court for Exclusive Trial of Cases under POCSO Act, Chengalpattu and direct the Sessions Judge, Special Court for Exclusive Trial of Cases under POCSO Act, Chengalpattu to furnish the certified copy of the FIR in Crime No.674 of 2021 on the file of the respondent herein as sought for by the petitioner in the aforesaid G.No.163 of 2021.

For Petitioner : Mr.G.Magesh Kumar

For Respondent : Mr.A.Damodaran
Government Advocate (Cr1. Side)

O R D E R

This Criminal Original Petition is filed to set aside the return endorsement dated 27.07.2021 in G.No.163 of 2021 on the file of the Sessions Judge, Special Court for Exclusive Trial of Cases under POCSO Act, Chengalpattu and direct the Sessions Judge, Special Court for Exclusive Trial of Cases under POCSO Act, Chengalpattu to furnish the certified copy of the FIR in Crime No.674 of 2021 on the file of the respondent herein as sought for by the petitioner in the aforesaid G.No.163 of 2021.



2.The petitioner/accused has been arrested by the respondent police on 07.07.2021 for the alleged offence under Sections 363 IPC r/w Section 6 of POCSO Act in Crime No.674 of 2021 and remanded to Judicial custody on 08.07.2021.

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3.The petitioner had filed a copy application seeking of the FIR in Crime No.674 of 2021, so that the petitioner can know the allegations made against him and for filing bail application. In this case, the trial Court had returned the copy application with an endorsement that since no charge sheet has been filed in the above Crime No.674 of 2021, the copy application is returned. Against which the present petition is filed.

4.The contention of the petitioner is that the petitioner is entitled to get a copy of the FIR, even before the filing of the final report (Charge sheet) by the respondent police as per old Rule 339 of the Criminal Rules of Practice and new Rule 231 of the Criminal Rules of Practice. Further the order passed by the Division Bench of this Court in Crl.RC.No.821 of 1986 & Crl.M.P.Nos.6452, 6900 of 1982 - Selvanathan Alias Raghavan & Others Vs. State by the Inspector of Police, G-5, Police Station & others reported in CDJ 1988 MHC 408. Following the same this Court in Crl.O.P.No.4200 of 2012 - Natarajan Vs. State of Tamil Nadu, Represented by the Inspector of Police, Villupuram District reported in CDJ 2012 MHC 2723 had passed an order on the affirmity and the accused is entitled for the copy of the FIR and order of the remand affidavit of the petition affidavit seeking police custody, the order passed by the Magistrate thereon. Relying upon the above said orders the accused are entitled for getting the copy of the First Information Report even before the final report. These principles are reiterated in the Criminal Rules of Practice- Rule No.231.

5.The learned Government Advocate [Crl. Side] relied upon the citation of the Apex Court in the case of Youth Bar Association of India Vs. Union of India and Others in W.P. (Crl.).No.68 of 2016 wherein it is held that the copies of the FIRs, unless the offence is sensitive in nature, like sexual offences, offences pertaining to insurgency, terrorism and of that category, offences under the Pocso Act and such other offences, should be uploaded on the police website, and if there is no such website, on the official website of the State Government, within twenty-four hours of the registration of the first information report so that the accused or any person connected with the same can download the FIR and file appropriate application before the court as per law for redressal of his grievances. It may be clarified here that in case there is connectivity problems due to geographical location or there is some other unavoidable difficulty, the time can be extended up to forty-eight hours. The said 48 hours can be



extended maximum up to 72 hours and it is only relatable to connectivity problems due to geographical location. Hence, the trial Court had refused to grant the copy of the FIR.

6. Considering the submissions and on perusal of the materials it is seen that the orders of the Division Bench of this Court which is followed even today and as per the old Rule No.339 of Criminal Rules of Practice and new Rule No.231 of Criminal Rules of Practice, the accused are entitled to get a copy of the FIR, even before the filing of the final report (Charge sheet) by the respondent police till the receipt of the free copies under Section 207 Cr.P.C.

7. The Apex Court Judgment cited supra in the case of Youth Bar Association of India Vs. Union of India and Others in W.P. (Crl.).No.68 of 2016 states about the uploading of the FIR in the Police Website and nothing more and the Apex Court further clarified that it is only the minor victim name alone not to be revealed to the public.

8. In view of the same, The petitioner is directed to represent or file a fresh copy application for getting the copy of the FIR in the above case and the trial Court is directed to provide the same without any delay. This Court is inclined to allow this Criminal Original Petition.

9. Accordingly, this Criminal Original Petition stands allowed with the above direction.

Sd/-
Assistant Registrar(CS-III)

//True Copy//

Sub Assistant Registrar

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To

1. The Hon'ble POCSO Committee,
High Court, Madras.
2. The Sessions Judge,
Special Court for Exclusive Trial of Cases under POCSO Act,
Chengalpattu
3. The Inspector of Police,
T-14, Mangadu Police Station,
Chennai,



4. The Public Prosecutor,
High Court,
Madras.

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+1cc to Mr.G.Magesh Kumar, Advocate, S.R.No.40845.

Cr1.O.P.No.13820 of 2021

SRA (CO)
RLP (23/08/2021)