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IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 24.09.2021

CORAM :

THE HONOURABLE MR.JUSTICE M.NIRMAL KUMAR

Cr1.O.P.No.16426 of 2021
and
Cr1.M.P.No.8961 of 2021

Dhanam @ Dhanasekaran,
S/o. Shanmugavel

...Petitioner

-Vs-

1. State rep by,
Inspector of Police,
W-35, All Women Police Station,
Tambaram, Chennai-45.
(Crime No.11 of 2021)

2. M.Valli,
W/o. Murugan

..Respondents

Prayer : Criminal Original Petition filed under Section 482 of the Criminal Procedure Code, to call for the records and quash the proceedings in F.I.R. No. 11 of 2021 dated 27.04.2021 on the file of the first respondent as against the petitioner.

For Petitioner : Ms.H.Lucia Priyadarshini

For Respondents: Mr.A.Damodaran
Additional Public Prosecutor for R1

O R D E R

(This case has been heard through video conference)

The petitioner/3rd accused in Crime No.11 of 2021 for an offence under Section 376(D) I.P.C. r/w 5(g), 5(1) and 6 of POCSO Act has filed present quash petition.

2. The contention of the petitioner is that on the day of alleged occurrence as mentioned in the complaint dated 23.04.2021, the petitioner's daughter birthday was going on in his residence and he was very much present along with his family, the petitioner would not have been present at the place of occurrence as alleged in the complaint. He would further submit that on the day of F.I.R. registered, the victim girl was



major and the defacto complainant, mother of victim had objection for the victim girl having relationship with A1 and the petitioner. For obvious reasons, they were falsely implicated in this case and the victim girl is yet to be subjected for medical examination, which is a primary requirement. In the absence of medical examination of the victim girl, how the case under POCSO Act and sexual assault would be made. Assailing these points, the present petition filed.

3. The Addl. Public Prosecutor appearing for respondent would submit that on perusal of complaint, it is seen that the occurrence was taken place not on one day and it is for the period of time. The victim girl was in love affairs with A1 and they were together in the isolated places and having private moments. This was said to have been found by the petitioner as well as other accused. Taking advantage of the same, they threatened her and also abused her physically. It is also seen that on 23.04.2017, the occurrence had taken place and even prior to it, on several occasions, the victim was subjected to sexual assault. He would further submit that in this case, victim girl was subjected to medical examination and Doctor's opinion obtained. A1 and A2 in this case were arrested. As far as this petitioner is concerned, the petitioner is absconding and he is yet to be arrested.

4. Heard submissions of learned counsel appearing for petitioner and learned Addl. Public Prosecutor appearing for 1st respondent and perused the records.

5. Considering the submissions and on perusal of materials, this Court finds that the points raised by the petitioner are not sustainable, since the investigation in this case is in initial stage. It is also seen that the victim girl given 161 statement confirming to the complaint, in which she has been specifically mentioned about the act of the petitioner. In view of the same, this Criminal Original Petition is dismissed. Consequently, the connected Criminal Miscellaneous Petition is closed.

Sd/-
Assistant Registrar(CS-V)

//True Copy//

Sub Assistant Registrar

rpp/nr



1. Inspector of Police,
W-35, All Women Police Station,
Tambaram, Chennai-45.

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