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IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 21.10.2021

CORAM

THE HONOURABLE MR.JUSTICE M.NIRMAL KUMAR

CrI.O.P.No.18268 of 2021
and
CrI.M.P.No.10019 of 2021

Vijay Kumar @ Dillipkumar

... Petitioner

Vs.

1. State rep. by,
The Inspector of Police,
P4-Basin Bridge Police Station,
Chennai.

2. Jaya

... Respondents

PRAYER: Criminal Original Petition is filed under Section 482 of the Code of Criminal Procedure, to call for the records pertaining to the FIR in Cr.No.550 of 2013 on the file of P4-Basin Bridge Police Station at Chennai and quash the same.

For Petitioner : Mr.D.Baskaran

For R1 : Mr.A.Damodaran,
Additional Public Prosecutor

ORDER

This Criminal Original Petition has been filed to quash the FIR in Crime No.550 of 2013 on the file of the 1st respondent Police.

2.The case of the prosecution is that on 30.07.2013, at about 08.00 a.m., the 2nd respondent lodged a complaint before the 1st respondent Police that her husband died prior to one year and she has two daughters and one son. On 29.07.2013, the elder daughter (victim girl) of the 2nd respondent has found missing at about 04.00 a.m. Despite search was made, the victim girl was unable to secure. Hence, the complaint.

3.During investigation, it was found that the petitioner kidnapped the victim girl, aged about 16 years, without her consent. Thereafter, the victim girl was secured from the



petitioner, sent for medical examination and her statement under Section 164 Cr.P.C., was recorded and Sections altered to 363, 376 and Section 4 of the Protection of Children from Sexual Offences Act, 2012 in Crime No.550 of 2013.

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4.The learned counsel for the petitioner submitted that there was love affair between the petitioner and the victim girl, who was at the age of 16 years. Due to the resistance shown by the family members of the victim girl, she had eloped with the petitioner on her own will. The victim girl in her statement recorded under Section 164 Cr.P.C., has stated that while she was going to school, she eloped with the petitioner on her own will and not at the insistence of the petitioner. She further stated that at the time of occurrence, she was aged about 16 years and the petitioner did not have sexual intercourse with her after elopement. The learned counsel further submitted that initially, the 2nd respondent and her family opposed the love affair of the victim girl and the petitioner and thereafter, both family members accepted the same and conduct marriage after the victim girl attains majority. Out of their wedlock, they have a female child aged about four years. To substantiate the same, the learned counsel for the petitioner filed affidavit of the petitioner, the 2nd respondent and the victim girl and produced the photocopy of the marriage, child birth certificate and ID proof of the 2nd respondent and the petitioner.

5.Now, the 2nd respondent and victim girl stated in the affidavit that they are not interested to prosecute the petitioner and the 2nd respondent is agreed to withdraw the complaint lodged against the petitioner in Crime No.550 of 2013. The victim girl has confirmed that she is happily living with the petitioner along with four years old child with the consent of the 2nd respondent. Hence, by allowing this petition, no prejudice would be caused to the victim girl and her family members.

6.The learned Additional Public Prosecutor appearing for the 1st respondent Police submitted that on 30.07.2013, at about 08.00 a.m., the 2nd respondent lodged a complaint before the 1st respondent Police that on 29.07.2013, the elder daughter (victim girl) of the 2nd respondent has found missing at about 04.00 a.m. Despite search was made, the victim girl was unable to secure. During investigation, it was found that the petitioner kidnapped the victim girl, aged about 16 years, without her consent. Thereafter, the victim girl was secured from the petitioner, sent for medical examination and her statement under Section 164 Cr.P.C., was recorded and Sections altered to 363, 376 and



Section 4 of the Protection of Children from Sexual Offences Act, 2012 in Crime No.550 of 2013.

7.He further submitted that during the pendency of investigation, both the family members of the victim girl and the petitioner entered into a compromise and marriage was conducted and now, the 2nd respondent is not inclined to further prosecute the petitioner.

8.This Court considered the rival submissions and perused the materials available on record and also the affidavits filed by the victim girl, 2nd respondent/mother of the victim girl and the petitioner.

9.Today, the petitioner, the 2nd respondent and her daughter/victim girl appeared before this Court. The victim girl and her mother/2nd respondent confirmed the compromise and settlement arrived with the petitioner and his family and also confirmed the marriage between the victim girl and the petitioner. The 2nd respondent has informed before this Court that she is not willing to further prosecute the petitioner, otherwise the peaceful life of the victim girl would get affected.

10.This Court in the case of "Sabari Vs. Inspector of Police reported in 2019(2) MLJ CrI.110", had observed that during the adolescent age, boys and girls got involved in a relationship, such relationship would be the result of mutual innocence and biological attraction, which cannot be construed as an unnatural one or alien to between relationship of opposite sexes.

11.In a similar situation, in the case of "Kumar @ Tennish Vs. The Inspector of Police, Latheri Police Station, Katpadi Taluk, Vellore and another in CrI.O.P.No.16648 of 2018", this Court had quashed the proceedings on the compromise arrived between the accused and defacto complainant.

12.In the light of the above decisions and considering the fact that the continuation of the investigation would affect the peaceful life of the victim girl and the petitioner, this Court is inclined to quash the FIR against the petitioner in Crime No.550 of 2013, on the file of the 1st respondent Police and, is quashed.



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13. Accordingly, this Criminal Original Petition is allowed. The affidavits filed by the victim girl, 2nd respondent and the petitioner shall form part and parcel of this case. Consequently, the connected Miscellaneous Petition is closed.

*Xerox Copies of the Affidavits of Sandhiya, Vijay Kumar @ Dillipkumar, Jaya are enclosed.

Sd/-
Assistant Registrar(CS-IX)

//True Copy//

Sub Assistant Registrar

vv2/mrp

To

1. The Inspector of Police,
P4-Basin Bridge Police Station,
Chennai.
2. The Public Prosecutor,
High Court, Madras.

+1cc to Mr.D.Baskaran, Advocate, S.R.No.54048

Cr1.O.P.No.18268 of 2021

PMK (CO)
SU (09/02/2022)
SU (11/02/2022)