



BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

DATED : 24.11.2021

CORAM :

THE HONOURABLE MR.JUSTICE G.R.SWAMINATHAN

Crl.O.P(MD)No.18339 of 2021

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... Petitioner/Defacto Complainant

Vs.

1.The Superintendent of Police,
Virudhunagar District, Virudhunagar.

2.The Inspector of Police,
A.Mukkulam Police Station,
Virudhunagar District.

(In Crime No.82 of 2021) ... Respondents

Prayer: Criminal Original Petition filed under Section 482 of Cr.PC to direct to withdraw the case in Crime No.82 of 2021 dated 10.10.2021 on the file of the respondent No.2 and entrust the same to any other competent officer for an investigation within the time stipulated by this Court and file a final report before the jurisdictional Magistrate.

For Petitioner : Mr.R.Venkatesan

For Respondents : Mr.T.Senthil Kumar,
Additional Public Prosecutor.

O R D E R

This petition has been filed by the defacto complainant seeking transfer of investigation.

2.The petitioner is a resident of Sengulam village. On 04.10.2021 at about 07.30 A.M she was waiting at the bus stop. Her destination was Thiruppuvanam. Before the bus could arrive, the accused who was known to the petitioner came there in a two wheeler. He offered to drop the petitioner at Thiruppuvanam as he was also heading there. The petitioner hesitated to take the offer. The two wheeler already had a pillion rider. But he happened to be a relative of the petitioner. He was to get down at the next stop. The petitioner got on the vehicle.

3.S.Nangur came and the petitioner's relative got down. Thiruppuvanam was still twenty minutes away. Taking advantage of the situation, the accused started misbehaving with the petitioner. The petitioner firmly repulsed the advances. The accused, who obviously had a lusty intention at the very inception, was not discouraged. He probably had not seen the movie "Nerkonda Paarvai". He had not internalized the famous dialogue "No means No". The petitioner joining the ride could not have been construed



as a green signal for something else. The accused unmindful of the resistance of the petitioner crossed the Lakhsman rekha. To safeguard her honour, the petitioner jumped from the moving vehicle and in turn suffered head injury. She was taken to hospital and regained consciousness three days later. She was discharged only on 15.10.2021.

4. When it comes to ensuring the safety of women, we have a long way to go. The male mentality has to undergo a fundamental transformation. The petitioner herein joined the ride with a sincere hope that she would be safely dropped at Thiruppuvanam. Instead of discharging the moral responsibility, the accused chose to abuse the occasion. He was obviously acting under the assumption that the petitioner had impliedly consented. Such assumption was clearly unwarranted. The petitioner had only consented to be a pillion rider. She did not consent for anything else. Certainly, the accused had no right to invade her privacy by violating her bodily integrity.

5. It is seen from the records that the accused was granted anticipatory bail on 12.10.2021 in Crl OP(MD)No.15784 of 2021. The investigation officer for reasons best known failed to place the relevant facts before the Court. The police merely gave an instruction that the accused was not having any previous case. Even the fact that the victim had not been discharged from the hospital was not informed to the court. This conduct of the investigation officer has rightly given an impression to the victim that the investigation is not proceeding on the right lines. The victim is a woman and there must be zero tolerance towards crimes against women. This Court has a duty to instill confidence in her. The accused by his conduct had been responsible for the victim to suffer a traumatic head injury. A case of this nature has been very casually handled by the second respondent. In the interest of justice, I direct the first respondent to issue proceedings transferring investigation from the file of the second respondent and entrusting the same in the hands of any other competent officer. The new investigation officer shall file the final report as expeditiously as possible.

6. The criminal original petition is allowed.

Sd/-

Assistant Registrar (AD II)

// True Copy //

17/02/2022

Sub Assistant Registrar(CS)

SKM



NOTE: In view of the present lock down owing to COVID-19 pandemic, a web copy of the order may be utilized for official purposes, but, ensuring that the copy of the order that is presented is the correct copy, shall be the responsibility of the advocate/litigant concerned.

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Note 1 : The Name of the petitioner to be suppressed.

To:

- 1.The Superintendent of Police,
Virudhunagar District, Virudhunagar.
- 2.The Inspector of Police,
A.Mukkulam Police Station,
Virudhunagar District.
- 3.The Additional Public Prosecutor,
Madurai Bench of the Madras High Court,
Madurai.

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MGJ(17.02.2022) 3P 4C