

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 22.06.2022

CORAM:

THE HON'BLE MR.JUSTICE N.SATHISH KUMAR

Cr1.O.P.No.13380 of 2022

Aejaz Ahmed,
S/o. Raseheed Ahmed

... Petitioner

Versus

1. The Inspector of Police,
Ambur All Women Police Station,
Vellore District.
(Crime No.2/2020)

2. Pooja,
D/o. Devaraj

... Respondents

PRAYER : Criminal Original Petition filed under Section 482 of Cr.P.C., praying to issue direction to call for the records of Cr. No.2 of 2020 on the file of the 1st respondent police pending investigation and quash the same.

For Petitioner : Mr.B.Thiyagarajan
For Respondents : Mr. A.Gokulakrishnan,
Addl. Public Prosecutor
for R1

O R D E R

This Criminal Original Petition has been filed seeking to quash the F.I.R. registered against the petitioner in Crime No.2 of 2020 for the offence Sec. 366(A) I.P.C., 3(1), 4(2)(b), 5(1)(a) of Immoral Traffic (Prevention Act), 1956.

2. The crux of the allegation found in the F.I.R. is that a minor girl was induced, she was taken to various places and subjected to prostitution and sexual assault, thereby F.I.R. has been registered. The only ground on which the F.I.R. sought to be quashed is that the defacto complainant has not signed in the F.I.R. Therefore, the same is against the procedure contemplated under Sec.154 of Code of Criminal Procedure. Hence, he seeks to quash the F.I.R.

3. Heard and considered rival submissions made by learned counsel appearing for petitioner and the learned Addl. Public Prosecutor appearing for 1st respondent and perused the records.

4. On perusal of the Sec.154 Cr.P.C., it would make it clear that any information relating to the commission of cognizable offence if given orally to an officer, who is incharge of a police station, the same shall be reduced to writing by him or under his direction and shall be read over to the informant and signed by the person giving it. No doubt, the signature of informant is required to be obtained in the F.I.R. The question arise whether mere not obtaining signature, the information could be thrown out at the threshold. It is relevant to note that in this case, the very F.I.R. indicates that having given the statement as to the nature of serious allegation against perpetrator of the crime, it appears that the victim has refused to sign in the statement, which has been recorded in the F.I.R. itself. However, the investigation proceeded further and the victim girl was examined and statement under Sec.164 Cr.P.C. was recorded by the Judicial Magistrate. The statement recorded before the Magistrate is also placed before me and the same indicates that she has not only supported the contents of F.I.R., but also implicated the accused how she was subjected to sexual assault by many persons. The statement recorded by the learned Judicial Magistrate would itself clearly lent the authenticity of the contents of F.I.R.

5. In such view of the matter, this Court is of the view that mere not signing of the F.I.R. by the informant, the same is not a ground to quash the F.I.R. The purpose of obtaining signature is only to lend authenticity of the statement of maker. Therefore, mere violation of such procedure by not obtaining the signature will not be a ground to quash the F.I.R. Whereas, in this case F.I.R. has been registered, investigation has been carried out and it has been proceeded further, maker lent assurance to the statement contained in the F.I.R. by way of 164 statement recorded before the learned Judicial Magistrate.

6. It is also relevant to note that the Division Bench of the High Court of Jharkhand in Criminal Appeal No. 66 of 2002 in the case of Sahjad Ansari Vs. The State of Jharkhand has held that mere absence of signature of the informant will not vitiate or nullify the F.I.R. and failure to observe the procedure laid down under Sec.154 of Cr.P.C. for recording fard beyan does not render the statement of the maker thereof inadmissible. Further,

it has held that the insistence on the signature of maker of F.I.R. is for the purpose of lending authenticity to the words or statement so recorded by the maker. The proof of such authenticity can also be given by the person in whose presence the statement of the maker of the fard beyan was recorded. Therefore, considering the above judgment and also the fact that the statement under Sec.164 Cr.P.C. has been recorded and she has confirmed the contents and a mere procedural lapse will not nullify or vitiate the F.I.R. In the given case, in fact, the officer incharge, who recorded the F.I.R. about the refusal of defacto complainant to sign the F.I.R. In such view of the matter, this Court do not find any material or merit in this case and the same is liable to be dismissed. Accordingly, this Criminal Original Petition is dismissed.

Sd/-

Assistant Registrar(CS-VIII)

// True Copy //

Sub Assistant Registrar

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To

1. The Inspector of Police,
Ambur All Women Police Station,
Vellore District.
2. The Public Prosecutor,
High Court, Madras.

CRL.O.P.No.13380 of 2022

KK(CO)
CB(14/07/2022)