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IN THE HIGH COURT OF JUDICATURE AT MADRAS

Dated : 23.06.2022

CORAM:

THE HONOURABLE MR.JUSTICE N.SATHISH KUMAR

Crl.O.P.No.14340 of 2022  
and Crl.M.P.No.7903 of 2022

P.Vijay @ Vijayakumar

...Petitioner

Vs

1.State Represented By,  
The Inspector of Police,  
P-2, Ooteri Police Station,  
Chennai-600012.  
(Crime No.421 of 2008)

...1<sup>st</sup> Respondent/Complainant

2.K.Dhanasekar

...2<sup>nd</sup> Respondent/Defacto Complainant

PRAYER: Criminal Original Petition filed under Section 482 of Criminal Procedure Code, pleaded to call for the entire records connected with the case in S.C.No.16 of 2020 on the file of the learned Mahila Court Judge, Chennai and quash the same.

For Petitioner : Mr.T.Shanmugaboopathi

For R1 : Mr.A.Gokulakrishnan  
Additional Public Prosecutor

O R D E R

This petition has been filed to call for the entire records connected with the case in S.C.No.16 of 2020 for the offences punishable under Section 366(A) of IPC on the file of the learned Mahila Court Judge, Chennai and quash the same.

2. The crux of the allegations is that A1 and the defacto complainant's daughter/victim developed some affairs and A1 induced the victim to come along with him and they went to Hyderabad and stayed there. Thereafter, they were returned to the house of A2 at Chennai and A1 married the victim in the



presence of A2 in a temple at Chennai. These were the allegations made in the final report and thereby, A2 is slapped with the charges under Section 366(A).

3. Normally the Court do not venture into appreciating the statements or evidence collected by the prosecution. But, at the same time, when the entire materials collected by the prosecution did not constitute any offence and there are no materials found to frame charges against the accused, continuing the prosecution against the accused is nothing but a futile exercise or an abuse of process of law.

4. On perusal of the statement of the victim, it is clear that only allegations made against A2 is that A1 tied thaali in the presence of A2 and other than that there was no other allegations found in any other statements of the witnesses. Merely, on the basis of the allegation that in the presence of A2, A1 tied thaali, the offence under Section 366(A) cannot be slapped against A2. The very allegation from the materials collected by the prosecution indicate that only A1 took the victim to Hyderabad, thereafter returned to Chennai and A1 tied thaali in the presence of A2.

5. In such view of the matter, the charges under Section 366(A) would not be attracted. Similarly, the abetment will not be attracted. To prosecute the person for the offence under Section 366(A), there must be an inducement on the part of the accused to the minor girl to go from any place or to do any act with an intent that such girl may be or knowing that it is likely that she will be forced or seduced to illicit intercourse with another person. Only in such situation, the offence under Section 366(A) would be get attracted.

6. It is not the case of the prosecution that A2 induced the minor girl to go with A1 or with the intent that she may be sexually exploited, whereas the statements and materials collected by the prosecution clearly shows that the minor girl and A1 went on their own and other than his presence, A2 has played no role.

7. Such being the matter, continuation of prosecution against A2 is nothing but a futile exercise or an abuse of process of law. Accordingly, the final report filed against A2 alone is quashed and the trial Court is directed to proceed the case in S.C.No.16 of 2020 against A1 as per law and expedite the trial.



8. Accordingly, this Criminal Original Petition is allowed. Consequently, the connected Miscellaneous Petition is also closed.

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Sd/-

Assistant Registrar (CS-VII)

//True Copy//

Sub Assistant Registrar

rgi/ham

To

1.The Judge,  
Mahila Court, Chennai.

2.The Inspector of Police,  
P-2, Ooteri Police Station,  
Chennai-600012.

3.The Public Prosecutor,  
High Court of Madras.

+2ccs to Mr.T.Shanmugaboopathi, Advocate SR. No. 39735

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SSD (CO)  
PR (07/07/2022)