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Crl.R.C.No.1595 of 2022

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 16.12.2022

CORAM

THE HONOURABLE MR. JUSTICE V.SIVAGNANAM

Crl.R.C.No.1595 of 2022 and
Crl.M.P.19143, 19144 of 2022

Selvarasu

... Petitioner

Vs.

1. State: rep. by
The Inspector of Police,
All Women Police Station,
Jeyakondam, Ariyalur District,
(Crime No.15 of 2019)

2. Bhavani

... Respondents

PRAYER: Criminal Revision Petition filed under Section 397 & 401 Cr.P.C. to set aside the order dated 28.11.2022 pertaining to the framing of charges for the offence under Section 376(2)(f), 376(2)(i), 376(2)(n) and 506(ii) of IPC against the petitioner in S.C.No.70 of 2020 on the file of the Sessions Judge, Mahila Court, Ariyalur by allowing the present Criminal Revision Petition.



Crl.R.C.No.1595 of 2022

WEB COPY

For Petitioner : Mr.B.Kumarasamy
For Respondent : Mr.V.Meganathan,
Govt.Advocate (Crl.Side)

ORDER

Challenging the Charges for the offence under Section 376(2)(f), 376(2)(i), 376(2)(n) and 506(ii) of IPC framed against the petitioner on 28.11.2022 in S.C.No.70 of 2020 by the Sessions Judge, Mahila Court, Ariyalur, this Criminal Revision Petition has been filed.

2. The petitioner is the accused in S.C.No.70 of 2020 and the respondent police registered a case in Crime No.15 of 2019 against him for the alleged offences punishable under Sections 376 and 506(ii) IPC, upon complaint received from the de-facto complainant on 13.09.2019. It is alleged by the de-facto complainant that the petitioner/accused has sexually misbehaved with her daughter, namely Sankarai @ Sivasankari.



Crl.R.C.No.1595 of 2022

WEB COPY

3. The learned counsel for the petitioner submitted that the petitioner has not committed any offence, as alleged by the defacto- complaint and he has been falsely implicated in the case. He also submitted that, the petitioner subjected himself to DNA test and as per the forensic lab report, the petitioner is excluded from the paternity of the male child born to Sivasankari. However, the respondent/ police, without considering the above said report, filed a final report before the Judicial Magistrate-II, Jayankondam, charging the petitioner for the offences punishable under Sections 376(2)(f), 376(2)(i), 376(2)(n) and 506(ii) of IPC. The above charge sheet was taken on file by the said Magistrate in PRC No.18 of 2020 and after committal, the case has been numbered as S.C.No.70 of 2020 on the file of the Fast Track Mahalir Neethimandram, Ariyalur.

4. The learned counsel for the petitioner further submitted that, the petitioner filed a Criminal Original Petition in CrI.O.P.No.1886 of 2021 before this Court to quash the proceedings of S.C.No.70 of 2020 and this



Crl.R.C.No.1595 of 2022

WEB COPY

Court, vide order dated 19.02.2021, has directed the Court below to keep the proceedings in S.C.No.70 of 2020 in abeyance, till the respondent police completes further investigation and files a final report. However, without conducting any further investigation, the respondent police recorded the statement of the witnesses alone and filed the Final Report on 11.11.2022, as if the petitioner committed the alleged offence. Without perusing any records, the Trial Court has framed the charges 28.11.2022 against the petitioner for the offences punishable under Sections 376(2)(f), 376(2)(i), 376(2)(n) and 506(ii) of IPC and the same is impugned herein.

5. The learned counsel for the petitioner submitted that, since there is no prima facie case made out against the petitioner/accused, he has to be discharged from the charges and the criminal proceedings and hence, he pleaded to set aside the impugned order of framing of charges, by the Trial Court.

6. When the matter is taken up, the learned Government Advocate



Crl.R.C.No.1595 of 2022

WEB COPY

(Crl.Side) submitted that, after direction of this Court dated 19.02.2021 in Crl.O.P.No.1886 of 2021, the respondent police recorded further statements of the witnesses and filed a final report on 11.11.2022. He further submitted that, after considering the statements of the witnesses, the Trial Court found prima facie case for framing charges against the petitioner/accused and hence, the Trial Court framed charges against the petitioner on 28.11.2022. Therefore, there is no substantial reason to set aside the order of framing of charges and this Criminal Revision petition has to be dismissed, as it has no merits.

7. I have considered the case, in the light of the submission made by the learned counsel for both the parties and I have perused the materials on record.

8. A perusal of the records reveals that the second respondent/ de-facto complainant lodged a complaint on 30.09.2019 before the first respondent alleging that her daughter Sakkarai @ Sivasankari was found



Crl.R.C.No.1595 of 2022

pregnant and on enquiry, she disclosed that the petitioner/accused has sexually misbehaved with her, and hence, she became pregnant. Upon receiving the complainant, the respondent/police registered a case in Crime No.15/2019 for the offences punishable under Sections 376(2)(f), 376(2)(i), 376(2)(n) and 506(ii) of IPC. The investigating officer filed a charge sheet and it was taken on file in PRC No.18 of 2020 by the Judicial Magistrate-II, Jayankondam. Subsequently, the case was committed to the Trial Court, which was taken on file as S.C.No.70 of 2020.

9. It is to be noted that, only after filing the case before the Court, the petitioner subjected himself for DNA Test and the Forensic Lab given a report on 29.08.2020. Subsequently, the petitioner filed a petition in Crl.O.P.No.1886 of 2021 before this Court, to quash the proceedings of S.C.No.70 of 2020, and this Court vide order dated 19.02.2021, has directed the Trial Court to keep the proceedings of the above case in abeyance, till the respondent/ police completes further investigation and files final report. Pursuant to the order of this Court, the investigating officer recorded further



Crl.R.C.No.1595 of 2022

statements of the witnesses and filed a final report on 11.11.2022 before the Trial Court. Being find prima facie case made out, the Trial Court framed the charges against the petitioner on 28.11.2022 under Sections 376(2)(f), 376(2)(i), 376(2)(n) and 506(ii) of IPC.

10. It is settled law that at the stage of framing charges, the Court expected only the prima facie case to proceed against the accused and not whether the case resulted in conviction. Truthfulness, sufficiency, adequacy or acceptability of the material produced at the time of framing charges, can be considered only at the time of Trial, not at prior stage. At this juncture, it is relevant to rely upon the following decisions of the Apex Court.

- i) *State of Maharashtra Vs. Salman Salim Khan reported in AIR 2004 SC 1189 dated 18.12.2003*
- ii) *State of Punjab Vs. Kasthurilal reported in AIR 2004 SC 4087;*
- iii) *Lalu Prasad @ Lalu Prasad Yadav Vs. State of Bihar reported in 2007 (1) SCC 49; (dated 06.12.2006)*
- iv) *Union of India Vs. Prafulla Kumar reported in AIR 1979 SC 366 (dated 06.11.1978)*



Crl.R.C.No.1595 of 2022

WEB COPY

11. The Trial Court found the existence of sufficient grounds for proceeding against the accused and hence framed the charges against the petitioner. Therefore, as per the ratio laid down by the Apex Court, I find no infirmity in the order of framing charges against the petitioner by the Trial Court and the Criminal Revision Petition fails, as it has no merits.

12. Accordingly, this Criminal Revision Petition is dismissed. Consequently, connected miscellaneous petitions are closed.

16.12.2022

Index: Yes/No
Internet: Yes/No
mst

To

1. The Sessions Judge, Fast Track Mahila Court, Ariyalur.
2. The Public Prosecutor, High Court, Madras.



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Crl.R.C.No.1595 of 2022

V.SIVAGNANAM, J.,

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Crl.R.C.No.1595 of 2022

16.12.2022