



Crl.RC No.150 of 2023

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : **03.02.2023**

CORAM

THE HONOURABLE Ms. JUSTICE R.N.MANJULA

Crl.R.C. No.150 of 2023
and Crl.M.P. No.1153 of 2023

B.Mani

... Petitioner

Vs.

The Inspector of Police,
W15, All Women Police Station,
Royapuram, Chennai- 600 013.

... Respondent

Criminal Revision Petition is filed under Section 397 & 401 of Criminal Procedure Code, to call for the records in Crl.M.P. No.556 of 2022 dated 17.10.2022 in J.C. No.169 of 2022 and set aside the same.

For Petitioner : Mr.R.C.Manoharan

For Respondent : Mr.V.Meganathan
Government Advocate (crl.side)

ORDER



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This Criminal Revision Petition has been preferred challenging the order of the learned XII Metropolitan Magistrate, Juvenile Justice Board, Kellys, Chennai in Crl.M.P. No.556 of 2022 dated 17.10.2022 in J.C. No.169 of 2022.

2. The petitioner is the defacto complainant's father. On the complaint given by the *de facto* complainant / victim a case has been registered against the accused in Cr. No.6 of 2022 for the offence under Section 354A(2), 9(1), 10, 11(4), 12 of the POCSO Act and Section 506(2) IPC. After completing investigation, charge sheet has been filed in C.C.No.169 of 2020 on the file of the learned XII Metropolitan Magistrate, Juvenile Justice Board, Kellys, Chennai, against the accused. The *de facto* complainant's father had filed a petition under Section 173(8) Cr.P.C before the learned XII Metropolitan Magistrate, Juvenile Justice Board, Chennai, seeking permission for further investigation. The said petition was dismissed the learned Magistrate. Aggrieved over that the present revision petition has been preferred.



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3. The learned counsel for the petitioner submitted that her daughter was sexually harassed by the accused and he had committed sexual assault also on her; the accused had transmitted the photographs of the *de facto* complainant from her mobile to his phone and threatened the victim that he would transmit her photographs by adopting morphing technology to shame her, as she did not co-operate with him to have sexual intercourse; thereafter the friend of the accused gave invite message to the *de facto* complainant through Instagram and that was not accepted by the *de facto* complainant; the above offence of harassment was continued by the accused till 11.03.2022; in fact on 11.03.2022 the accused had become a major and hence he cannot as a Juvenile.

4. The learned Government Advocate (Crl.side) submitted that on the date when the offence was committed, the accused was a minor and only because of that the charge sheet has been filed before Juvenile Justice Board.

5. The main contention of the learned counsel for the petitioner is that the said fact was not considered by the respondent and he had chosen to treat the accused as Juvenile and filed charge sheet before the Juvenile Justice



Board. The first occurrence is said to have occurred on 05.07.2021. As per the birth certificate of the accused, it is seen that her Date of Birth is 20.07.2003. The learned Magistrate had observed that the Juvenile Justice Board has got no power to order further investigation. On the date of commission of offence the accused was a minor and hence charge sheet has been filed before the Board. Even according to the FIR, the criminal act on the part of the petitioner is said to have been committed on 05.07.2021. During that time the accused was a minor.

6. The learned Government Advocate submitted that the mobile phone of the victim was sent to Forensic Examination and only after the report is received the involvement of any other person can be known. In that case, there is a possibility to file further report. When the witnesses were examined and it is revealed from the evidence or in the assessment of the board that the accused is a major and he is matured enough to be tried before a regular Court, the appropriate orders will be passed by the board itself. The birth certificate of the victim can very well be furnished as an additional document by the prosecution and there is no bar to receive the same.



7. If it comes to the knowledge of the Juvenile Justice Board that the accused was a minor at the time of the commission of the offence or the offence was continued to be committed by him even after he attained majority, the Court itself would pass appropriate orders to commit the accused to a regular Court. As stated already, if the assessment report discloses that the accused is matured enough to face the trial before regular Court, the Juvenile Justice Board can pass appropriate order. Hence the need for further investigation under Section 173(8) Cr.P.C. does not arise.

8. With the observations, this Criminal Revision Petition is disposed.

Connected miscellaneous petition is closed.

03.02.2023

Index : Yes/No
Speaking Order : Yes / No
bkn

To:

1. The XII Metropolitan Magistrate,
Juvenile Justice Board,
Kellys, Chennai
2. The Inspector of Police,
W15, All Women Police Station,
Royapuram, Chennai- 600 013.
3. The Public Prosecutor,
High Court, Madras.



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R.N.MANJULA, J.,

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