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Reserved on 14.06.2023	Pronounced on09.2023
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Crl.M.P.No.4075 of 2023
in
Crl.A.No.584 of 2016
RMT.TEEKAA RAMAN, J.

This petition is filed by the father of the victim girl to implead himself as a second respondent in the Criminal Appeal.

2. The second respondent–Police has filed a charge sheet in Crime No.37 of 2013 alleging the offence under Sections 9(u), 9(1) and 9(m) of POCSO Act, 2012 r/w Section 10 of POCSO Act, 2012, and u/s 11(iii) of POCSO Act, 2012 r/w Section 12 of POCSO Act, 2012 and u/s 506(ii) of I.P.C.

3. After trial, the accused/appellant has convicted by the Special Judge at Puducherry in Special S.C.No.7 of 2015, dated 30.06.2016 and he has preferred the Criminal Appeal No.584 of 2016 and the same is pending before this Court.

4. Pending appeal, the father of the de-facto complainant victim has filed this petition to implead the petitioner herein as the proposed 2nd respondent.

5. The learned Public Prosecutor (Pondicherry) appearing for the second respondent contended that the private party cannot be assumed as a role of law enforcement authority, if at all, they can be



permitted to assist the prosecution has contemplated under Criminal Procedure Code.

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6. Heard the Party-in-person.

7. This Court has appraised the party-in-person regarding the provision of Criminal Procedure Code.

8. The short point arises for consideration is whether the father of the victim girl can be added as a party in hearing the appeal against the conviction.

9. In the decision reported in Crl.A.No.632 of 2022, the [Jagjeet Singh and others Vs Ashish Mishra @ Monu], the Hon'ble Supreme Court has held as follows:-

24. A 'Victim' within the meaning of Cr.P.C cannot be asked to await the commencement of trial for asserting his/her right to participate in the proceedings. He/She has a legally vested right to be heard at every step post the occurrence of an offence. Such a 'victim' has unbridled participatory rights from the stage of investigation till the culmination of the proceedings in an appeal or revision. "

10. It is also noted that under the Special Criminal Act namely SC&ST Prevention of offence Act, there is a legally obligation to hear the victim at the time of granting bail.



11. As per the earlier decision of the Hon'ble Supreme Court

has held as follows:-

10.Each criminal case presents its own peculiar factual scenario and, therefore, certain grounds peculiar to a particular case may have to be taken into account by the Court. The Court has to only opine as to whether there is prima facie case against the accused. The Court must not undertake meticulous examination of the evidence collected by the police and comment on the same.

12. On the facts and circumstances of the case, I find that the victim girl is now major. She can very well file application for assisting the prosecution. The petitioner herein is a father of the victim girl and hence, I have no hesitation, that he cannot be impleaded as a party/respondent in the appeal.

13. As observed earlier, it is open to the victim girl who is now major can take re-course to the necessary provisions in the Criminal Procedure Code to file appropriate application for the appropriate relief and hence, this Criminal Miscellaneous Petition is rejected.



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14. Accordingly, this Criminal Miscellaneous Petition is dismissed.

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Office to Note:-

In the decision reported in Hon'ble High Court of Delhi in 2023 SCC OnLine Del 2190 [Saleem Vs.State of NCT of Delhi and another] The question arise,

(i) does the victim's right to be heard include the obligation to be impleaded as a party-respondent in criminal proceedings? That is the question sought to be addressed by this judgment.

(ii) In the light of the decision of the Supreme Court in Jagjit Singh (supra), section 439(1A) Cr.P.C., must now be expanded to include the victim's right to be heard even in petitions where an accused seeks anticipatory bail; a convict seeks suspension of sentence, parole, furlough, or other such interim relief;

2. In this regard, the procedures that has to be evolved for implementation of the victim during hearing of the appeal or bail obligations or anticipatory bail applications as the case may be, I find that the Criminal Rule Committee shall necessarily formulated certain



aspects touching upon the printing upon the name of the victim in the cause title to display in the on-line cause list.

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3. As per the above said decision of Delhi High Court in 2023 SCC OnLine Del 2190 [Saleem Vs.State of NCT of Delhi and another] certain standing procedures was formulated covering upon such rights.

4. Hence, the Registry is directed to place the papers before My Lord The Hon'ble The Chief Justice for administration sanction for Criminal Rule Committee in order to formulate similar rules and standing operation procedures involving victim being heard, as stated by the Hon'ble Supreme Court in (i) Jagjeet Singh Vs.Ashish Mishra, alias Monu; ii) Nipun Saxena V. Union of India and (iii) Birbal Kumar, Nishad V.State of Chhattisgarh for necessary drafting to conduct the case.



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Pre-Delivery Order in
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