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CRL.O.P.Nos.15500 of 2021

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 01.03.2023

CORAM:

THE HON'BLE Ms.JUSTICE R.N.MANJULA

Crl.O.P.No.15500 of 2021

and

Crl.MP.No. 8474 of 2021

Selvaraj

..

Petitioner/A1

Versus

1.The Inspector of Police,
Steel Plant Police Station,
Salem District.

... Respondent

2.Selvaraj

.. 2nd Respondent/Defacto complainant

Criminal Original Petition filed under Section 482 of the Code of Criminal Procedure to quash the First Information Report in Crime No.550 of 2013 dated 03.11.2013, on the file of 1st respondent police against the petitioner.

For Petitioner : Mr. K.Sathish Kumar

For Respondent-1: Mr.A.Gopinath
Government Advocate (crl.side)

For Respondent-2: No appearance



ORDER

This Criminal original petition has been filed to quash the proceedings in FIR in Cr.No.550/2013 dated 03.11.2013 on the file of the first respondent police.

2.The petitioner is the sole accused against whom the second respondent/ defacto complainant has given a complaint on 03.11.2013 by stating that his minor daughter was missing on 31.10.2013. He also alleged about his doubt upon the accused he is taking away his minor daughter. On the above allegations made in the complaint, a case has been registered against this petitioner/ A-1 and others for the offences under Sections 147, 120 B and 366 (A) IPC.

3.Heard the submissions made by the learned counsel on either side and perused the materials available on record.

4. The learned counsel for the petitioner submitted that the petitioner and the daughter of the defacto complainant got married and they have two children aged about 5 years and 2 years respectively and they are living



happily; at the time of occurrence, the daughter of the second respondent/defacto complainant was on the verge of attaining majority, she had willingly gone with the first accused; the first accused has not committed any fraud upon her. In this regard the learned counsel for the petitioner cited the following decisions:

- (i) Three Judges Bench judgment of the Hon'ble Supreme Court held in the case of S.Varadarajan Vs. State of Madras reported in (1965) 1 SCR 243
- (ii) The Hon'ble Full Bench judgment of this Court held in the case of Court on its own Motion(Lajja Devi) Vs. State reported in 2012 (131) DRJ 225 and
- (iii) the Hon'ble Division Bench of this Court in the case of Manish Singh Vs. State and Ors reported in 126(2006) DLT 28(DB)

4.1.By citing the above judgment in *Manish Singh (supra)*, it is submitted that if a girl of 16 years makes a statement that she went with the accused by expressing her consent without any force, coercion or undue influence, her statement could be accepted and the proceedings against the accused should be quashed. The above observation is applicable to the facts of this case also. A document appears to be in a form of an affidavit is



executed by the daughter of the second respondent was also produced before this Court. In the said affidavit she has stated that she had married the first accused willingly and now she is living with him.

5. The learned Government Advocate (crl.side) for the first respondent submitted that the victim was a minor and the accused was 21 years old at the time of occurrence only if the investigation is allowed to go on the real facts behind the occurrence or any other offences committed would come to light. Since a prima facie case is made out, the prosecution should be allowed to continue the investigation.

6. The submission of the learned counsel for the petitioner is that the minor girl had willingly gone with the petitioner and it is a case of Love affair. The age of the victim at the time of occurrence was below 16 years. Hence, the fact that she was minor at the time of occurrence cannot be denied. It is further submitted that after attaining majority the petitioner and the second respondent's daughter got married out of free will without any compulsion. Even though the affidavit has been filed by stating that the



victim had married the accused, the same was not established to the satisfaction of the Court. Even if the factum of marriage is true that alone cannot be the reason for stopping the investigation for proceeding further.

7. Despite the case has been registered in the year 2013 the investigation has not yet been completed. The matter is kept pending for long without any further progress. On the face of the complaint it makes out a case against the petitioner, hence the prosecution should be allowed to do proper investigation and find out whether the second respondent's daughter has exercised her own option and free will on the day of the occurrence. The second respondent's daughter is a minor and her level of maturity to make a decision on her own also not known without her appearance. Hence, I find no reason to quash the proceedings at the threshold stage itself.

8. Considering the long pendency of the matter I feel it is appropriate to direct the first respondent police to complete the investigation and file the final report within a period of four weeks from the date of receipt of copy of this order.



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WEB COPY In the result, this Criminal Original Petition stands **dismissed**. It is made clear that the observations and discussions made herein is only for the purpose of this petition and the Trial Court has to appreciate the evidence and proceedings dispassionately without being influenced by the observations of this Court. Consequently, connected miscellaneous petition is closed.

01.03.2023

[½]

Index: Yes/No
jrs



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To:

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- 1.The Inspector of Police,
Steel Plant Police Station,
Salem District.
- 2.The Public Prosecutor,
High Court, Madras.



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R.N.MANJULA, J.,

jrs

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