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CrI.O.P.No. 24364 of 2023

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C.V.KARTHIKEYAN, J.

The petitioner /A1 who was arrested and remanded to judicial custody on 22.09.2023 registered by the respondent Police under Section 354(1)(iv) of IPC and Section 67 of IT Act, 2000 in Crime No.112 of 2023, seeks bail.

2.The case of the prosecution is that the defacto complainant had lodged a complaint that a morphed obscene video about his wife with vulgar written message, were shared from the mobile number 9655325382 among the business circle. On investigation, the respondent had taken the petitioner into custody and also the other two accused.

3.The learned counsel for the petitioner stated that the other two accused alone had created the video and the petitioner had only forwarded the said video among the business circle.

4.On the side of the respondent, it is stated that there was a pre-existing dispute between the defacto complainant and the petitioner owing to lease of a shop which was retained back by the defacto complainant causing loss to the petitioner herein. It is thus stated that there was a strong motive for



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the petitioner herein to cause injury in the aforesaid manner to the defacto complainant.

5.The learned counsel for the petitioner stated that both the defacto complainant and his wife had filed an affidavit before the Judicial Magistrate No.II, Puducherry stating that they were not aware that a complaint of this nature would be registered as FIR and they stated that they had compromised the entire issue. Appreciation is placed on record on the learned Judicial Magistrate No.II, Puducherry, who had refused to take that affidavit on record and had placed reliance of Section 77 of IT Act, 2000 which makes it imperative and clearly mandates that such complaint with respect to allegations where the victim is a woman is not compoundable.

6.The earlier bail application and the subsequent bail application before the learned Principal Sessions Judge were also dismissed.

7.The learned counsel for the petitioner placed reliance on the two affidavits. The two affidavits are meaningless papers and have no legal value whatsoever. If the defacto complainant and his wife had stated that they are very happy that the accused morphed the picture of his wife and circulated it in the business circle or in any other circle, then it would only imply that they



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have been threatened and under influence, had written the said affidavits.

8.No reliance can be placed in the said affidavits. The matter has to be examined during the trial. If it is found that the petitioner had threatened the defacto complainant and his wife to so execute the said affidavits then it will be a further offence against the accused. It is a clear case of tampering with the material witnesses.

9.The learned counsel for the petitioner states that the petitioner would also produce the defacto complainant and his wife.

10.This very fact establishes that they are in the custody of the petitioner. Again the same order is reiterated. It is clear that the defacto complainant is under the threat of the petitioner.

11. In the result, this Criminal Original Petition stands dismissed.

19.10.2023

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