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Crl.O.P.No.8881 of 2024

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 10.04.2024

CORAM

THE HONOURABLE DR.JUSTICE G.JAYACHANDRAN

Crl.O.P.No.8881 of 2024

P.Sakthivel

... Petitioner

/versus/

1. State Rep. by Inspector of Police,
Vettavalam Police Station,
Vettavalam,
Tiruvannamalai Taluk – 606 754.
(Crime No.276 of 2023)

2. The Superintendent of Police,
Tiruvannamalai District.
Tiruvannamalai.

... Respondents

Prayer: Criminal Original Petition is filed under Section 482 of Criminal Procedure Code, to issue direction to the 1st respondent to alter the FIR in Crime No.276 of 2023 dated 28.08.2023 by including the relevant provisions of Protection of Children from the Sexual Offences Act, 2012.

For Petitioner : Mr.R.Vijayakumar.

For R1 & R2 : Mr.K.M.D.Muhilan.
Government Advocate (Crl.Side)



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ORDER

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This Criminal Original Petition is filed to issue direction to the 1st respondent to alter the F.I.R in Crime No.276 of 2023 dated 28.08.2023 by including the relevant provisions of Protection of Children from the Sexual Offences Act, 2012.

2. The father of the minor girl has given a complaint to the respondent police alleging that her minor girl has been kidnapped by a person call Delhi @ Baskaran (A-32). The said complaint in Crime No.276 of 2023 dated 28.08.2023 under girl missing not been properly investigated and hence, the present petition is filed to alter the F.I.R and include relevant provision of POCSO Act.

3. The Learned Government Advocate (Crl.Side) appearing for the respondent states that this complaint was enquired and after obtaining the Birth Certificate of the petitioner's daughter found that the school record indicates that her Date of Birth is 24.05.2004, whereas, the birth certificate produced by the complainant show that she was born on 08.10.2005. Since, the Juvenile Justice Act as well as the dictum of Hon'ble Supreme Court mandates that in case of dispute regarding ascertaining the age of the minor child, first



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preference must be given to the entry made in the school record and therefore, following the said dictum, the respondent police enquired and found that the daughter of the petitioner had crossed the age of 18 and therefore, the provision under POCSO Act not included. Furthermore, it is also found that the girl on attaining majority, had now married the said Baskaran and living happily and therefore, there is no purpose in disturbing their peaceful life.

4. In view of the above fact, since no criminality is made out, the police has decided to close the complaint as mistake of fact and the RCS report is made ready. The notice of RCS was attempted to serve on the petitioner today but he refuse to receive it hence, it has been affixed in the doors of the petitioner residence. The RCS report will be filed in the due course.

5. Recording the same, this Criminal Original Petition is dismissed.

10.04.2024

Index : Yes/No
Neutral Citation : Yes/No
bsm

DR.G.JAYACHANDRAN,J.



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bsm

Copy to:-

1. The Inspector of Police,
Vettavalam Police Station,
Vettavalam, Tiruvannamalai Taluk – 606 754.
2. The Superintendent of Police,
Tiruvannamalai District.
Tiruvannamalai.
3. The Public Prosecutor, High Court of Madras, Chennai.

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