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Crl.O.P.No.22366 of 2024

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 24.09.2024

CORAM

THE HONOURABLE DR.JUSTICE **G.JAYACHANDRAN**

Criminal Original Petition No. 22366 of 2024
in Crl MP No.12743 of 2024

K.Karnan @ Lingesan

... Petitioner

Vs.

The State
Represented by
Inspector of Police,
AWPS – Perur Police Station,
Coimbatore.
(in Cr. No.26/2021)

... Respondents

Prayer: Criminal Original Petition is filed under Section 528 of Bharatiya Nagarik Suraksha Sanhita, praying to call for the records in SPL SC No.180 of 2022 on the file of Additional District and Sessions Judge cum Special Judge for POCSO Act Cases, Coimbatore and quash the proceedings.

For Petitioner : Ms.S.Pooja Shree
for M/s.A.Parthasarathy and Associates

For Respondent : Mr.S.Udayakumar
Government Advocate (Crl.Side)



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ORDER

The petitioner herein is the paternal uncle of the victim girl aged 14 years was implicated for having sexual intercourse with her and making her pregnant. The Police based on the statement given by the victim girl, the mother and others had registered the case against the petitioner in Crime No.26 of 2021 and after completion of investigation filed final report and the same was taken on file in Special SC No.180 of 2022.

2. The learned counsel appearing for the petitioner submits that the DNA Test conducted on the foetus of the victim and the DNA of the accused as well as the victim has been subjected to comparison and mapping and the paternity of the foetus and the accused Karnan has been excluded from the paternity of the foetus.

3. The learned counsel referring the DNA report submit that the DNA mapping while clearly excludes the petitioner as a cause for the pregnancy of the victim girl, the Police ought to have exonerated the



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petitioner from prosecution and should have conducted proper investigation to find the real culprit, who had impregnated the minor child without conducting proper investigation, final report filed and the Trial Court has also mechanically taken cognizance.

4. The learned Government Advocate (Crl. Side) submits that though the DNA test does not implicate the petitioner, the 164 statement of the victim girl as well as 161 statement of the other witnesses clearly implicate the petitioner herein and the statement of the victim girl prevails upon the scientific evidence.

5. This Court after going through the documents annexed along with the final report and particularly statement of the witnesses and the DNA Report is of the opinion that the medical evidence clearly indicates that the minor girl was impregnated and her foetus was aborted after she was taken to KGM Hospital. However, the paternity of the foetus does not indicate the petitioner herein. But for the scientific evidence, the investigation of the case and the final report could have been accepted, but scientific evidence, particularly a DNA Report which goes contrary



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to the statement of the witness should have been taken note by the I.O. and ought to have conducted further investigation in this matter. But unfortunately he has hurriedly filed the final report and the Trial Court has also taken the same on file without verifying the contradiction between the statement of the victim and the scientific report.

6. It is appropriate to set aside the final report and direct the Commissioner of Police to entrust the investigation of the case to some other appropriate Inspector of Police attached to AWPS and conduct further investigation particularly based on the DNA Report and proceed and file final report within a period of six months.

7. The Criminal Original Petition is disposed of with the above direction. Consequently, the connected miscellaneous petition is closed

24.09.2024

jv

Index : Yes/No
Neutral Citation : Yes/No



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1. The Additional District and Sessions Judge
cum Special Judge for POCSO Act Cases,
Coimbatore.
2. The Inspector of Police,
AWPS – Perur Police Station,
Coimbatore.
3. The Public Prosecutor,
Madras High Court,
Chennai 600 104.



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Dr.G.JAYACHANDRAN, J.

jv

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