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Crl.R.C.Nos.1976 and 1978 of 2024

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 19.12.2024

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THE HONOURABLE MR.JUSTICE **SUNDER MOHAN**

Crl.R.C.Nos.1976 and 1978 of 2024
and Crl.M.P.Nos.16113 and 16119 of 2024

Selvakumar

...Petitioner in both Crl.RCs

Vs.

1.The State represented by the Inspector of Police,
Mangalmedu Police Station,
Perambalur District.

...Respondent in both CRL RCs

2. Rajakumari

...2nd Respondent in Crl.R.C.No.1978 of 2024

Prayer in Crl.R.C.No.1976 of 2024: Criminal Revision Petition is filed under Section 438 r/w 442 of BNSS 2023 to set aside the order passed in Crl.M.P.No.1 of 2023 in Spl.SC.No.12 of 2022 by the learned Family Court Judge i/c. Mahila Court at Perambalur dated 30.04.2024.

Prayer in Crl.R.C.No.1978 of 2024: Criminal Revision Petition is filed under Section 438 r/w 442 of BNSS 2023 to set aside the order passed in Crl.M.P.No.2 of 2024 in Spl.SC.No.12 of 2022 by the learned Family Court Judge i/c. Mahila Court at Perambalur dated 30.04.2024.



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For Petitioner in
both Crl.R.Cs

: Mr.G.Ilamurugu

For Respondent in
Crl.R.C.No.1976 of 2024
and for first respondent in
Crl.R.C.No.1978 of 2024

: Mr.S.Udaya Kumar,
Govt. Advocate (Crl.Side)

COMMON ORDER

The revisions have been filed challenging the common order passed by the learned Family Court Judge i.e., the Mahila Court at Perambalur, dated 30.04.2024 in Crl.M.P.No.1 of 2023 and Crl.M.P.No.2 of 2024.

2. Crl.M.P.No.01 of 2023 was filed by the State with a prayer for DNA analysis comparing the victim's DNA with that of the accused, namely the petitioner herein. The petitioner filed another application seeking dismissal of the said petition along with the affidavit of the mother of the victim girl opposing the DNA examination, since the victim had married another person.

3. It is seen that during the course of investigation, no DNA test was conducted and although an earlier order was passed, no DNA test was conducted and therefore, this petition filed by the State was opposed



by the petitioner.

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4. The trial Court after considering the rival submissions, held that in a case instituted under the Protection of Children from Sexual Offences Act, 2012, the DNA test would offer corroboration to the evidence of the victim and, in any case, would help in unearthing the truth.

5. Mr.G.Ilamurugu, the learned counsel for the petitioner, would submit that this belated application filed by the prosecution ought not to have been allowed, especially in light of the affidavit filed by the victim's mother and prayed for setting aside the orders.

6. Mr.S.Udaya Kumar, the learned Government Advocate (Crl.Side), for the respondent police, *per contra*, submitted that since the child was born to the victim pursuant to the offence committed by the petitioner, it is necessary to conduct a DNA test to ascertain the truth or otherwise in the allegations made by the *de-facto* complainant.

7. Though it is seen that the mother of the victim girl had filed an affidavit opposing the DNA test, this Court is of the view that the victim



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cannot decide the course of investigation and direct the respondent police as to how the investigation should be conducted. The DNA test would certainly be essential in a case of this nature and no prejudice would be caused to the petitioner and in any case, the petitioner has no right to oppose such a request by the respondent police. Hence, this Court is of the view that the impugned orders passed by the learned Magistrate cannot be faulted, and therefore the above revisions are liable to be dismissed.

8. Accordingly, both the **Criminal Revision Cases** are dismissed.

Consequently, connected CMP Nos.16113 & 16119 of 2024 are closed.

19.12.2024

Index : Yes/No
Internet : Yes/No
Neutral Citation : Yes/No
Speaking order/Non-speaking order
dk

To

1.The Inspector of Police,
Mangalmedu Police Station,
Perambalur District.

2.The Family Court Judge i/e. Mahila Court,
Perambalur.



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3. The Public Prosecutor,
High Court of Madras,
Chennai.



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SUNDER MOHAN, J.

dk

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