

**H.C.P.No.1132 of 2019**

**N.KIRUBAKARAN, J.**

**and**

**ABDUL QUDDHOSE, J.**

(Order of the Court was made by **N.Kirubakaran, J**)

It is shocking to note that young girls especially minors are eloping with married persons/aged persons. Previously, this Court clubbed many of these kind of cases together and posted as group of matters in which the minors/young girls eloped with aged/married persons and raised a set of queries.

2.In this case, the petitioner's daughter is said to have been undergoing an undergraduate degree viz., Bachelor of Science in Vivekananda college. On 16.01.2019, she went to college from home stating that she would return on 14.02.2019, as she is a hosteller. Since she neither returned on 14.02.2019 nor there was a call from her, the petitioner contacted her. The petitioner's daughter attended the call and said that she is with her uncle viz., Loganathan who is already married and having a child and intend to live with him. Hence, the petitioner lodged a complaint on 15.02.2019. Since, no action has been taken, the petitioner is before this Court.

3.It is a case of missing of a girl on 14.02.2019 regarding which a complaint was promptly given on the same day. It is seen that so far no FIR

has been registered and only CSR has been given by the police. This Court is unable to understand as to why the police has not registered FIR in this case. In these type of cases, the police officials use to register the case as "a man missing case" or "a girl missing case" or "a woman missing case". However, to a query to the learned Government Advocate as well as to the learned Counsels who are present in the Court, they have replied that there is no provision in the Indian Penal Code for "man or woman missing". However, the Police officials were mechanically registering the FIR as "man missing" case or "woman missing" case.

4.This Court is unable to understand as to how an offence which is not stated in Indian Penal Code has been invented by the Police officials and FIRs are registered. Everyday, before this Court, a number of Habeas Corpus Petitions are filed to produce as missing of man, woman and children. When there is no offence as "man missing" in the Indian Penal Code, it should have been brought to the notice of the policy makers so that appropriate Act would be amended to include new provision for "man, woman or children missing cases".

5.At this juncture, Mr.G.Karthikeyan, learned Assistant Solicitor General would bring to the notice of this Court that there is no provision in the

Indian Penal Code in cases of persons missing as no criminal offence is committed. If the missing is due to abduction or kidnapping, it could be registered as a case of kidnapping or abduction and not as a man missing case. He has also brought to the notice of this Court regarding Section 174 of the Code of Criminal Procedure under which enquiry shall be conducted by the Police regarding suicide etc., He would submit that Section 174 of the Code of Criminal Procedure could be amended to include cases of missing persons, so that an enquiry in man missing cases shall also be conducted under Section 174 of the Code of Criminal Procedure. Section 174 of the Code of Criminal Procedure reads as follows;

"174. Police to enquire and report in suicide, etc.,

(1) When the officer incharge of a police station or some other police officer specially empowered by the state Government in that behalf receives information that a person has committed suicide, or has been killed by another or by an animal or by machinery or by an accident, or has died under circumstances raising a reasonable suspicion that some other person has committed an offence, he shall immediately given intimation thereof to the nearest Executive Magistrate empowered to hold inquests, and, unless otherwise directed by any rule prescribed by the State Government, or by any general or special order of the District or Sub-divisional Magistrate, shall proceed to

*the place where the body of such deceased person is, and there, in the presence of two' or more respectable inhabitants of the neighbourhood, shall make an investigation and draw up a report of the apparent cause of death, describing such wounds, fractures, bruises, and other marks of injury as may be found on the body, and stating in what manner, or by what weapon or instrument (if any); such marks appear to have been inflicted.*

*(2)The report shall be signed by such police officer and other persons, or by so many of them as concur therein, and shall be forthwith forwarded to the District Magistrate or the Sub-divisional Magistrate.*

*(3)When -*

*(i)the case involves suicide by a woman within seven years of her marriage; or*

*(ii)the case relates to the death of a woman within seven years of her marriage in any circumstances raising a reasonable suspicion that some other person committed an offence in relation to such woman; or*

*(iii)the case relates to the death of a woman within seven years of here marriage and any relative of the woman has made a request in this behalf; or*

*(iv)there is any doubt regarding the cause of death; or*

*(v)the police officer for any other reason considers it expedient so to do, he shall subject to such rules as the State Government may prescribe in this behalf, forward the body, with a view to its being examined, to the nearest Civil Surgeon, or other*

*qualified medical man appointed in this behalf by the State Government, if the state of the weather and the distance admit of its being so forwarded without risk of such putrefaction on the road as would render such examination useless.*

(4)The following Magistrates are empowered to hold inquests, namely, any District Magistrate or Sub-divisional Magistrate and any other Executive Magistrate specially empowered in this behalf by the State Government or the District Magistrate."

From the above, it is clear that Section 174 of the Code of Criminal Procedure speaks about suicide of a person or has been killed by another or by an animal or by machinery or by an accident, or has died under circumstances raising a reasonable suspicion of commission of offence by some other persons. After enquiry under Section 174 Cr.P.C, cases would be registered as either suicide or murder of a person. In man missing cases also, it is not known as to whether the missing person is alive or not and what are all the reasons for his disappearance.

6. Therefore, Section 174 of the Code of Criminal Procedure should be amended to include man missing cases under this provision so that an enquiry could be conducted.

7.Hence, this Court *suo motu*, impleads

- (A).The Union of India, Ministry of Law and Justice, New Delhi;  
(B).The Secretary, Home Department, Govt., of Tamil Nadu, Chennai;

and

(C).The Director General of Police, Govt., of Tamil Nadu, Chennai;  
as respondents 3 to 5. Mr.Karthikeyan, learned Assistant Solicitor General of India takes notice for the 3rd respondent and Mrs.V.Saratha Devi, learned Government Advocate (Crl Side) takes notice for the respondents 4 and 5.  
The following queries are raised to be answered by the newly impleaded respondents.

(i).Is there any provision with regard to man missing cases in the Indian Penal Code?

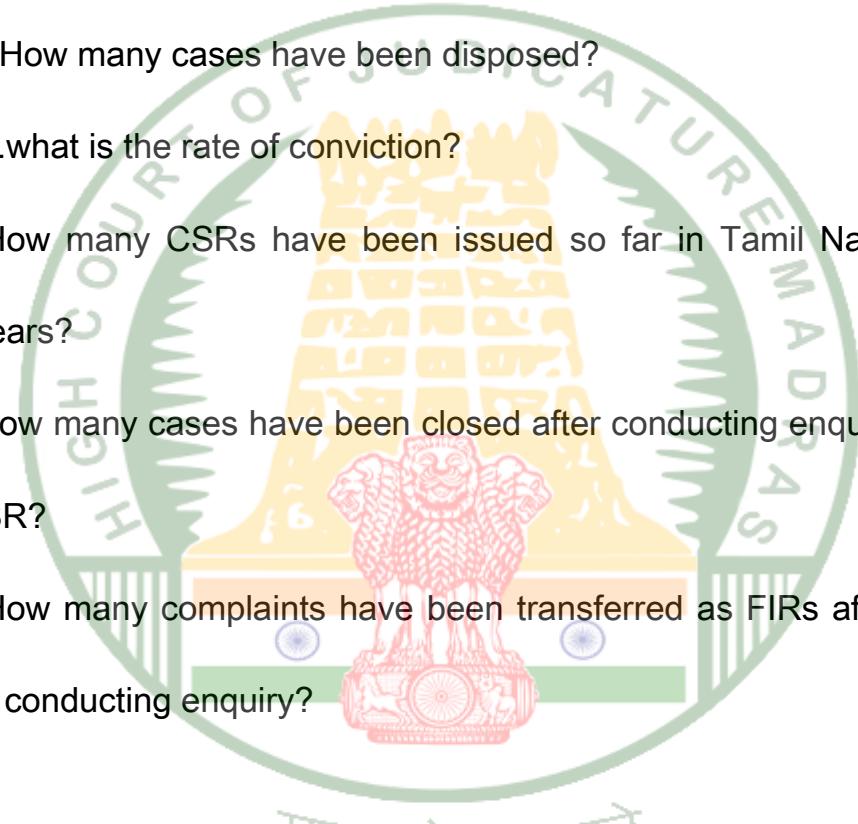
(ii).If not in the Indian Penal Code, is there any other provision in any other Act?

(iii).Why not the Central Government amend Section 174 of the Code of Criminal Procedure to include the "man missing case" also within the scope of Section 174 of the Code of Criminal Procedure?

(iv).When the Government would bring out an amendment in Section

174 of the Code of Criminal Procedure?

- (v).How many cases of "man missing" are filed in the past ten years in Tamil Nadu and throughout India?
- (vi).How many persons have been rescued or found?
- (vii).How many cases have been disposed?
- (viii).what is the rate of conviction?
- (ix)How many CSRs have been issued so far in Tamil Nadu for the past ten years?
- (x)How many cases have been closed after conducting enquiry or after issuing CSR?
- (xi)How many complaints have been transferred as FIRs after issuing CSRs and conducting enquiry?



8.It is also brought to the notice of this Court that the police officials are not registering FIR immediately when a complaint is received and are not deciding as to whether the contents of the complaint would make out cognizable offence or not. It is seen that when a complaint is received, mechanically, a CSR is being issued. There is no provision shown to this Court regarding the issuance of CSR by the police officials. This kind of

practice of issuing CSR should be deprecated and a decision should be taken by the police officials either to register FIR immediately or after considering the content of the complaint as to whether cognizable offence is made out or not or after conducting enquiry following the dictum laid down in "Lalithakumari case".

9. In this case, it is very shocking to note that though the complaint has been received on 14.02.2019, till date, FIR has not been registered and enquiry or investigation has not been conducted by the Police officer and nothing has been informed to the petitioner. It is nothing but a deliberate failure on the part of the police officer which has to be deprecated. The police authorities should understand the pain and suffering of the parents and other relatives of missing persons, especially the girls. If the children of the officials or their relatives are missing, whether the officials would keep quiet without taking any effort. Probably, they would show interest only if prominent people go missing.

10. It is also seen that even though the case has been filed before this Court on 07.06.2019 and it has been numbered yesterday and prosecution

copy has also been received by the Public Prosecutor's office and a computer message has been sent to the Station House Officer, Tiruchengode Police Station, the learned Government Advpcate (Criminal Side) would submit that so far there is no information received from the police officials in this case. It is a girl missing case which has been reported on 14.02.2019 and it is a very serious issue. Inspite of the seriousness, no action has been taken by the police. Hence, the Inspector of Police, Tiruchengode Police Station is directed to appear before this Court and file an affidavit as to why he has not registered the FIR for the past four months and what is the action taken pursuant to the complaint given by the petitioner.

Post the matter on 17.06.2019.

*सत्यमेव जयते* (N.K.K.,J) (A.Q.,J.)

13.06.2019

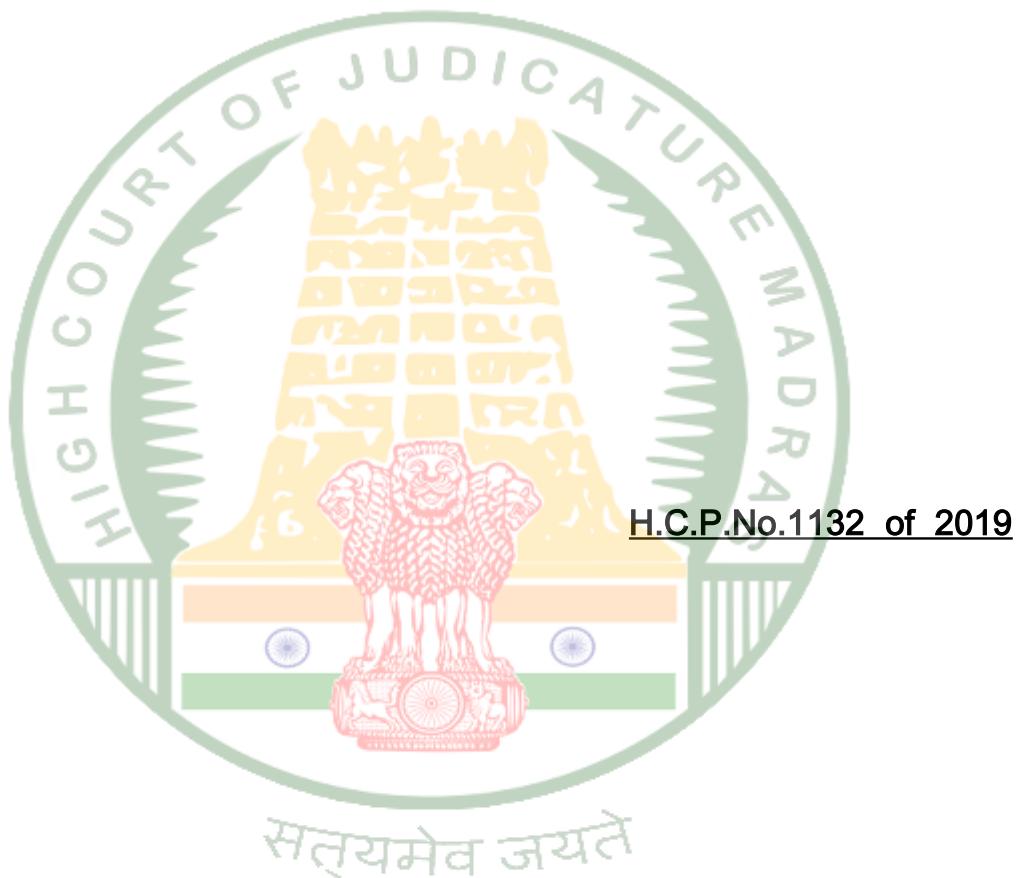
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**Note:** Office is directed to give the copy of the petition to the Government Pleader or the Public Prosecutor after getting endorsement with date and time, so that this Court will be in a better position to know as to whether the Government Pleader or Public Prosecutor has got sufficient time to inform the concerned authorities.

N.KIRUBAKARAN, J.  
and  
ABDUL QUDDHOSE, J.

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Dated: 13.06.2019