

**IN THE HIGH COURT OF JUDICATURE AT MADRAS****Reserved on : 07.12.2017****Pronounced on : 19.12.2017****CORAM:****THE HONOURABLE MR. JUSTICE M.S.RAMESH****Crl.O.P.Nos.26464 & 26402 of 2017**

1.K.M.Shaji Kumar .. Petitioner in both Crl.O.Ps

2.K.M.Sheeja .. Petitioner in both Crl.O.Ps

3.R.Mohanraj .. Petitioner in both Crl.O.Ps

  
Vs.1.The Inspector of Police,  
CBCID-ATC Wing,  
Egmore,  
Chennai-600 008 .. Respondent in both Crl.O.Ps

2.M.Sumathi .. Respondent in both Crl.O.Ps

3.The Child Welfare Committee,  
No.198/1, Thirukalzi Kundram Road,  
Chengalpattu .. Respondent-Crl.O.P.26402/20173.Holy Apostles Convent,  
No.6, Butt Road,  
St. Thomas Mount,  
Chennai-600 016. .. Respondent-Crl.O.P.26402/2017

**Prayer in Crl.O.P.No.26464 of 2017:** Criminal Original Petition filed under Section 482 Cr.P.C., praying to call for the records pertaining to the FIR in Cr.No.3 of 2017 pending on the file of the first respondent police and to quash the same.

**Prayer in Crl.O.P.No.26402 of 2017:** Criminal Original Petition filed under Section 482 Cr.P.C., praying to direct the respondents 3 & 4 to hand over the child viz., Master Mukunthan @ Madhav Shaji aged about 1 year to the petitioners 1 & 2.

For Petitioners : Mr.W.M.Abdul Majeed  
in both Crl.O.Ps

For Respondent-1 : Mr.C.Iyyapparaj  
in both Crl.O.Ps. Additional Public Prosecutor

For Respondent-2 : Ms.G.Sumitra  
in both Crl.O.Ps.

For Respondents 3 & 4 : No Appearance  
in Crl.O.P.26402/2017

### **COMMON ORDER**

The prayer sought for in Crl.O.P.No.26464 of 2017 is to call for the records in Crime No.3 of 2017, pending on the file of the first respondent and to quash the same.

2. When the matter came up for hearing today, the petitioners as well as the second respondent/defacto complainant are personally present before this Court. In order to identify themselves, the petitioners and the second respondent have submitted the photo copies of their Aadhar Cards viz., Shaji Kumar K.M.-3474 2776 4939, Sheeja K.S.- 4513 2093 5582, Monhanraj R-3265 1645 8011 & Sumathi M-4107 8777 0728 and after verification of the original cards, the same are recorded.

3. Heard the learned counsel for the petitioners as well as the learned counsel for the second respondent and the learned Additional Public Prosecutor for the first respondent. The officials namely, Mr.R.Raja Srinivas, Deputy Superintendent of Police and Mrs.K.Uma Maheswari, Inspector of Police appeared in person on behalf of the CBCID-ATC-Wing, Egmore, Chennai.

4. It is submitted by the learned counsel for the petitioners that pending Crl.O.P.No.26464 of 2017, the defacto complainant and the petitioners have amicably resolved the dispute among themselves and accordingly, they have entered into a compromise.

5.The learned Additional Public Prosecutor vehemently opposed the petition saying that by taking into account of the seriousness of the offences and in view of the Sections 370(4), 120(b), 384 of I.P.C. and Section 75 of Juvenile Justice Act, 2015, the offences are not compoundable.

6.The Hon'ble Supreme Court of India in a judgment in ***Unnikrishnan @ Unnikuttan Vs. State of Kerala in Crl.MP. No. 18630 of 2016 dated 01.03.2017*** has held that even in case where the offences are not compoundable registered under Section 320 Cr.P.C., compounding can be considered in view of the compromise arrived at between the parties. The relevant portion of the judgment is as follows:

*"11.What emerges from the above is that even if an offence is not compoundable within the scope of Section 320 of Code of Criminal Procedure the Court may, in view of the compromise arrived at between the parties, reduce the sentence imposed while maintaining the conviction.*

*12.Having regard to the facts of the present case, while taking into account the settlement arrived*

*at between the parties and also considering the affidavits filed before us by each one of the applicants by way of joint application, we allow the application seeking permission to compound the offences.”*

7. In view of the above observations of the Hon'ble Supreme Court, I am of the considered opinion that the ends of justice would be met by permitting the petitioners to compound the offences in view of the compromise arrived at between parties.

8. Recording the submissions made by the defacto complainant as well as the affidavit filed by her dated 07.12.2017, the investigation in Crime No.3 of 2017 on the file of the first respondent police is quashed. The Criminal Original Petition viz., **Crl.O.P.No.26464 of 2017 stands allowed.**

9. Before parting with the case, I was shocked to realise the circumstances under which the FIR came to be registered against the petitioners herein.



10.The entire episode leading to filing of the FIR against the petitioners herein originated from a TV Show titled "Sollvathallam Unmai" that came to be telecasted in a private channel namely, "Zee Tamil" on 10.07.2017 and 11.07.2017. The defacto complainant who was personally present before this Court on 04.12.2017 stated that she, along with her husband, had wholeheartedly consented to give her third male 3 months old child namely, Master Mukunthan @ Madhav Shaji in adoption to the first and second petitioners herein, in view of their inability to bring up the child owing to poverty. Pursuant to her consent, an adoption deed came to be registered on 09.03.2017 on the file of the Sub Registrar, Sriperumbadur, registered as Doc.No.13/IV/2017. The custody of her minor child was also handed over to the adoptive parents namely, the first and second petitioners herein and since then, the infant was under the care and protection from then onwards. While that being so, there arose a matrimonial dispute between the defacto complainant and her husband, in consequence of which, she was advised to participate in the TV Show "Sollvathallam Unmai" being regularly telecasted in the private Channel, in order to ventilate her grievances against her husband. Being innocent of the nature of the TV Show, she had also contacted

the said channel, wherein certain persons responsible for the telecast of the show "Sollvathallam Unmai", had tutored her to highlight the issue of her adoption by compelling her to falsely state that her husband had sold the child to the first and second petitioners. After the telecast of this show, the entire villagers of the defacto complainant turned against the defacto complainant and in these circumstances, the defacto complainant was coerced to give a false complaint against the first and second petitioners and others on the strength of the statements made by her in the TV channel.

11. In view of her statements, the defacto complainant was directed to file an affidavit narrating the events which induced her to file the present complaint with the first respondent and accordingly, an affidavit dated 07.12.2017 came to be filed before this Court. The affidavit shockingly narrates as to how, a noble gesture of an unwanted child being given in a lawful adoption with the consent of the biological parents, turned into a nightmare and agony to the adoptive parents owing to the screenplay and direction of the persons behind the telecast of the TV Show "Sollvathallam Unmai". It would be useful to extract the entire affidavit filed by the biological mother of the child:-

*"I, M.Sumathi, W/o.Mohanraj, Hindu, aged about 27 years, residing at No.2/427, 8<sup>th</sup> Street, 10<sup>th</sup> Cross Street, Puthu Nallur, Somangalam, Sriprembudur Taluk, Kancheepuram District, now come down to Chennai, do hereby solemnly and sincerely affirm state as follows:-*

*1. I am the 2<sup>nd</sup> respondent herein and as such I am well acquainted with the circumstances stated below.*

*2. I submit that the 3<sup>rd</sup> petitioner herein and myself are husband and wife. I submit that out of the wedlock we already have a son aged 5 years and a daughter aged 3 years.*

*3. While so, in the year 2016 I was conceived again for the 3<sup>rd</sup> time and since we belong to a marginalized section of the society and could not make the ends meet, I wanted to abort the child, but the doctors refused to do abortion because of my ill-health.*

*4. I submit that the petitioners 1 and 2 herein who are husband and wife and did not have a child since 2003, decided to adopt a child and through my neighbor Pramila, a*



*common friend had approached me and my husband, the third petitioner herein, expressing their willingness to adopt our third child who was in my womb at that time. I have given birth to a male child on 22.11.2016 and had given him a name Mukunthan.*

*5. I submit that as per the understanding with me and my husband on one side, and the petitioners 1 and 2 on the other side, with regard to the adoption of my third child Master.Mukunthan, all the four of us have entered into an adoption deed dated 09.03.2017 registered as Document No.13/IV/2017, at the office of the Sub Registrar, Sriperumbundur, thereby giving in adoption the afore said Master.Mukunthan, born to me as my third child to the petitioners 1 and 2 herein. The adoption was given by us with our free and full consent.*

*6. I submit that I and my husband who were leading our lives normally, sometime later had some misunderstanding with regard to some other family disputes including a suspected illegal relationship of my husband. Day today small quarrels got bigger and when I*

*had sought the help of my relatives to solve the issues, they all started blaming me as if I was at fault. Since my mind was not stable and was deeply affected due to the above blames being made against me I had sought the help of my house owner Saraswathi to sort out the issues. She had in turn advised me to approach any of the so called live TV shows to find some solution and to vent out my problems. She herself had given me the phone number of Zee Tamil Channel which was telecasting a TV show called as "Solluvathellam Unmai".*

*7. I submit that I had called the above said phone number and one Mr.Stephen, the Progra Incharge/Co-ordinator of the above said show "Solluvathellam Unmai" spoke to me. I had narrated to him about my problem with my husband. For which he had told me that if I project only the illegal relationship of my husband the problem could not be solved, I was also asked to speak about the adoption which I had already given. He had also told that I will had to make allegations against my husband blaming him that he had sold the child to the petitioners 1 and 2 herein and if I make such allegations the programme host "Lakshmi*

*Ramakrishnan" herself will spend for me and get back my child, by which all my problems will be solved. Believing these words I had accepted to say so only with the hope that the problems with my husband will be solved.*

*8. I submit that I was asked to come to Zee Tamil T.V. Office situated at Guindy, Chennai on 03.07.2017. Accordingly, I had reached their office at about 8 pm. and I was taken to a hotel where I was accommodated for the next two days. I state that I was asked to provide the phone numbers of my husband and his family members. Therefore I have furnished the details of phone numbers to them. The show co-coordinators told me that if they call them for solving the problem of illegal relationship of my husband, my husband and their family members will not come to the show, and therefore they further told me that they are going to call them saying that my husband had sold the child to petitioners 1 and 2 through the show they will get back the child to the family.*

*9.I submit that thereafter I was again called to the TV office on 05.07.2017 around 7 pm. for recording the show. Before the*

*commencement of the shooting of the show, the said Stephen and the other coordinator had kept on tutoring me to say about the giving up the child to the petitioners 1 and 2 and asked me to highlight the child issue and make all types of sentimental drama before the camera instead of telling about the illegal relationship of my husband. When I asked about my husband and his family members presence in the show they told me that they were kept in another room and they will also join the show.*

*10. I submit that the programme host Lakshmi Ramakrishnan spoke to me in length and told me that I should tell in front of the camera that my husband, the third petitioner herein had sold our child for money to the petitioners 1 and 2 herein. She also said this they will inform the petitioners herein, impress upon them and would bring back the child and my husband to me. She said that she will take care of the entire expenses with regard to bring back my child and I need not worry about anything. She also said that once the child is handed over to me and my husband also returns to me then only they will telecast the show after informing me and getting my*



*consent. She told me that no harm would come to me and my family members and the channel will protect my interest. I was taken by the sweet and alluring words spoken by the channel people I have gone for shooting of the show.*

*11. I submit that believing the words of the said Lakshmi Ramakrishnan, Stephen and their team I had made allegations as told by them in the show and I have also spoke about the illegal relationship of my husband and sort the team to solve my family issue. To my shock and surprise even without getting my consent or informing me about any telecast, the programme was telecasted on 10.07.2017 and 11.07.2017. When our entire village had watched the show everyone started scolding me and the said Pramila, my neighbor for helping me for the said adoption. Not able to bear the questioning of the villagers the said Pramila had given a police complaint. In such a situation my father-in-law had called the child help line No.1098 and compelled me to lodge a complaint against the petitioners including my husband.*

*12. I submit that the first respondent police had registered a case against the*



*petitioners herein. The adoption was duly given to the petitioners 1 and 2 under a registered adoption deed dated 09.03.2017 by me and my husband/the third petitioner herein. The above said adoption given by us was with our free will and full consent. In fact right from the date of the adoption, petitioners 1 and 2 have been taking care of the child with much care, love and affection. They have been very much attached to the child and the child in turn is also very much attached to them.*

*13. I submit that all these allegations made against the petitioners are purely due to the above said tutoring of the persons attached to the above said TV show "Solluvathellam Unmai" including the anchor Lakshmi Ramakrishnan, its Co-ordinator Stephen and others, who alone have induced me to make such false allegations only with a view to increase the popularity of their show and not otherwise.*

*14. I submit that for the popularity of their Channel and the show, they have misused my family problem and lured me to participate in the show. Though they promised me after*

*the shoot of the show that they will telecast this show after getting back my child and solving the problem with my husband, but to my shock and surprise without my consent and without any information to me they have telecasted the show and spoiled my life and the life of the 11 months old child. The inducement made by the above persons has played havoc in my life for the recent days and my small child who is just 11 months old was also deprived of love, care and affection, leaving a deep scar in his mind.*

*15. I am placing all these facts for better appreciation of the events and for the welfare of the child Master.Mukunthan alias Madhavan who had been given in adoption to the petitioners 1 and 2 herein by me and my husband/the 3<sup>rd</sup> petitioner herein."*

12.From the reading of the statements made in the aforesaid affidavit, it is seen that the adoption was valid in law. It is also seen that the biological mother had no intention at all to file a case against the petitioners 1 & 2 and others for a penal offence for Trafficking of a Minor. On an overall reading of the averments in the affidavit, if at all, any offence could be made out, viewing the entire above narration of events in the affidavit, the persons responsible

for tutoring the defacto complainant during the show can be arrayed as an accused.

13. Media is a powerful tool which can influence on the people's daily life surrounding them in every aspect of life, embedding itself as a social norm. At the same time, it possess greater social responsibility on its shoulders. While, exposing incidents relating to commission of crimes for creating social awareness is laudable, will the Media be justified in creating and screenplay an incident for popularizing their programme? The present case is an unfortunate example of such an incident being created as per the whims and fancies of the persons behind the telecast of the TV Show "Sollvathallam Unmai". The sanctity of a legal adoption was tarnished and the image of the child trafficking has been substituted by the hostess of the show.

14. More shocking was the aftermath of the registration of the FIR. The petitioners 1 & 2, being the adoptive parents of the minor child, were constrained to approach this Court seeking for anticipatory bail. While their anticipatory bail applications were under consideration, the first respondent police had retrieved the

child from the adoptive parents and put the 11 month old infant under the custody of a private home namely, Holy Apostles Convent, St. Thomas Mount, Chennai. The infant, thus became deprived of both its adoptive parents as well as the biological parents. Consequently, the first respondent had also reported before this Court that the infant was 'secured' and its custody has been handed over to the child care home. It is in this background, that CrI.O.P.No.26402 of 2017 came to be filed before this Court by invoking Section 482 Cr.P.C., seeking for a direction to restore the custody of the infant to the adoptive parents along with CrI.O.P.No.26464 of 2017 for quashing the FIR in Cr.No.3 of 2017.

15. On 04.12.2017, the adoptive parents along with the biological parents personally appeared before this Court and with a great amount of emotions and sorrow pleaded for justice. Since the biological parents affirmed that they have no objection for handing over the custody of the infant to the adoptive parents, on the same day, an interim order came to be passed with a direction to hand over immediate custody of the infant to the adoptive parents and accordingly, the matter was adjourned. On 07.12.2017, all the parties appeared before this Court and reported that the custody of



the infant has been restored to the adoptive parents and the biological mother also affirmed that she was happy and contented to know that the infant has been restored to the adoptive parents. The mischief caused by the TV show was thus undone. Hence, no further orders are required in **Crl.O.P.No.26402 of 2017** and accordingly, **the same stands closed.**

16.In the light of the above unfortunate incident, it would be appropriate to observe that the Director General of Police, State of Tamil Nadu, the Ministry of Information and Broadcasting of Central and State Governments should relook into the permission granted for telecast of TV Show "Sollvathallam Unmai" in Zee Tamil Channel and take appropriate measures to regulate and refrain from granting permissions for telecast of such shows in future.

17.In the result, the Crl.O.P.No.26464 of 2017 stands allowed and the Crl.O.P.No.26402 of 2017 stands closed.

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19.12.2017

Speaking  
Index:Yes  
Internet:Yes  
DP

To

- 1.The Inspector of Police,  
CBCID-ATC Wing,  
Egmore,  
Chennai-600 008
- 2.The Public Prosecutor,  
High Court, Madras.



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**M.S.RAMESH.J,**

DP



**Pre-Delivery Order made in  
Crl.O.P.Nos.26464 & 26402 of 2017**

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**19.12.2017**