



BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT
DATED : **27.04.2017**

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THE HONOURABLE MR. JUSTICE P.N. PRAKASH

CRL.O.P. (MD) No.5244 of 2017

and

Crl.M.P. (MD) Nos.3712 and 3713 of 2017

1.Shaji

2.Byeula Shaji

: Petitioners

Vs.

1.The Inspector of Police,
Kaliyakkavilai Police Station,
Kanyakumari District.

2.B.Nala Chandrasekaran

: Respondents

Prayer:Criminal Original Petition is filed under Section 482 of Cr.P.C., praying to call for the records in P.R.C.No.2 of 2014 on the file of the Judicial Magistrate Court No.I, Kuzhithurai, and to quash the same.

For Petitioners : Mr.S.C.Herold Singh

For Respondent No.1 : Mr.A.P.Balasubramani,
Government Advocate (Crl.side)

ORDER

It is the case of the prosecution that the accused herein had brought about 76 children from North Eastern States belonging to Scheduled Castes and Scheduled Tribes Communities and were keeping them in an unlicensed orphanage and had been ill-treating them by making them to do hard labour. The case came to light on the intervention of the Child Welfare Committee, Tirunelveli, based on which, F.I.R.No.48 of 2010 was registered by Kaliyakkavilai Police Station and after completing the investigation, charge sheet has been filed in P.R.C.No.2 of 2014 before the learned Judicial Magistrate No.I, Kuzhithurai and it is awaiting committal, challenging which, this quash application has been filed by the first and second accused.



2. Heard Mr.S.C.Herold Singh, learned counsel for the petitioners and Mr.A.P.Balasubramani, learned Government Advocate (Criminal side) appearing for the first respondent.

3. Mr.S.C.Herold Singh, learned counsel for the petitioners submitted that the petitioners herein did not bring the children as alleged in the charge sheet and that at the request of the third accused, the first and second accused had accommodated the children in their orphanage, which has been misconstrued by the defacto complainant.

4. In the considered opinion of this Court, when the allegations are such grave in nature, this Court cannot go into the disputed questions of fact in a petition under Section 482 of the Code of Criminal Procedure. Since there are *prima facie* materials against the petitioners, the prosecution cannot be quashed. However, it is brought to the notice of this Court that Paul @ Nambuig Paul (A-3) is absconding and, therefore, the Trial Court is unable to commit the case to the Sessions.

5. In view of the above, the respondent police is directed to file necessary application for splitting up the case as against A-3 Paul @ Nambuig Paul and, thereafter, the learned Judicial Magistrate No.1, Kuzhithurai, is directed to complete the committal proceedings, within a period of three months. The petitioners shall co-operate with the committal Court for committal of the case.

6. With the above direction, this Criminal Original Petition is dismissed. Consequently, the connected miscellaneous petitions are closed.

Sd/-

Assistant Registrar(CS-II)

/True copy/

Sub Assistant Registrar

To

1.The Judicial Magistrate Court No.I, Kuzhithurai.

2.The Inspector of Police,
Kaliyakkavilai Police Station,
Kanyakumari District.

3.The Additional Public Prosecutor,
Madurai District, of Madras High Court,
Madurai.



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+1 cc to Mr.S.C.Herold Singh , Advocate in SR.No. 54825

SML

AE/SV/09.05.2017/3P/5C

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Order made in
CRL.O.P. (MD) No.5244 of 2017
Dated:-
27.04.2017