



BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

DATED: 05.06.2017

CORAM:

THE HONOURABLE MR.JUSTICE P.N.PRAKASH

Cr1.O.P. (MD)No.5492 of 2017

and

Cr1.M.P. (MD)No.3892 of 2017

A.S.Bilal @ Bilal Kasim

: Petitioner

Vs.

1.The State represented by,
The Inspector of Police,
Ilayangudi Police Station,
Sivagangai District.
(Crime No.57 of 2016).

2.M.Nawaz Khan

: Respondents

Prayer : Criminal Original Petition is filed under Section 482 of the Code of Criminal Procedure praying to call for the entire records pertaining to the case in Crime No.57 of 2016 on the file of the Inspector of Police, Ilayangudi Police Station, Sivagangai District and quash the same.

For Petitioner

: Mr.P.Gunasekaran

For Respondent No.1

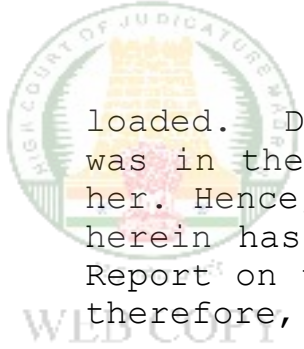
: Mr.T.Mohan,

Additional Public Prosecutor

O R D E R

On the complaint lodged by Nawaz Khan, the respondent police registered a case in Crime No.57 of 2016 on 14.03.2016 under Sections 341, 170, 323 and 363 of the Indian Penal Code against four unknown persons.

2. The case of the *defacto* complainant is that he is the driver of a school bus carrying children to the school in Ilayangudi. While so, on 14.03.2016, when the school bus was proceeding with children to the school, four persons intercepted the school bus stating that they are officials of Election Commission and told the driver that one of the child Imaaya is carrying Rs.50 Lakhs in her school bag and that she has to be off-



loaded. Despite the protestation of the driver and the Aaya, who was in the school bus, the four off-loaded the child and abducted her. Hence, the First Information Report. While so, the petitioner herein has filed this petition for quashing the First Information Report on the ground that he is the father of the child Imaaya and, therefore, there cannot be a charge of abduction against him.

3. Heard the learned counsel for the petitioner and the learned Additional Public Prosecutor appearing for the first respondent.

4. The learned counsel for the petitioner submitted that the father and mother of Imaaya were estranged and there was no love lost between the spouses resulting in several litigations pending against each other. While so, at the instance of the maternal grandfather of Imaaya, this false case has been engineered against the petitioner. The learned counsel also placed strong reliance on a judgment of this Court in **In Re: Kanneganti Chowdarayya vs. Unknown [1938(1) MLJ 670]**, wherein, this Court has held that a charge of abduction cannot be laid against a father for taking custody of a child. Hence, the learned counsel seeks for quashment of the First Information Report.

5. Per contra, the learned Additional Public Prosecutor submitted that the investigation has been completed and charge sheet has been filed before the learned Judicial Magistrate, Ilayangudi, on 30.03.2016, but, the same has not yet been taken on file.

6. This Court gave its anxious consideration to the rival submissions.

7. As regards the contention of the learned counsel for the petitioner that a father cannot be charged for abduction, in this case, it is alleged that the abduction had been done in a very spurious manner inasmuch as four persons have intercepted a school bus claiming themselves to be Election Commission officials. Thereafter, they have forcibly off-loaded Imaaya by alleging that she is carrying Rs.50 Lakhs in her school bag. The contention of the learned counsel for the petitioner that the First Information Report has been stage-managed at the instance of the maternal grandfather of the child cannot be countenanced while deciding this quash application, because the name of the petitioner does not figure in the First Information Report. The driver, who did not know the names but only knew the identity of the abductors, has only given the description of the abductors to the police and, therefore, in Column No.7 of the First Information Report, the name of the petitioner does not figure. Therefore, this Court does not find any artificiality in the First Information Report warranting interference at this stage.



8. In the result, this Petition is devoid of merits and accordingly, it is dismissed. Consequently, the connected miscellaneous petition is closed.

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Sd/-

Assistant Registrar(CS-III)

/True copy/

Sub Assistant Registrar

To

- 1.The Inspector of Police,
Ilayangudi Police Station,
Sivagangai District.
- 2.The Additional Public Prosecutor,
Madurai Bench of Madras High Court,
Madurai.

SML

AE/SKN/SAR1/12.06.2017/3P/3C

Order made in
Cr1.O.P. (MD) No.5492 of 2017
Dated: 05.06.2017