



BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT
(Criminal Jurisdiction)

Tuesday, the Third day of January Two Thousand Seventeen

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PRESENT

The Hon`ble Mr.Justice A.M.BASHEER AHAMED

CRL OP(MD) No.22005 of 2016

1 MARIASELVAM

2 JAISON RATHNARAJ

3 I.CHRISTINA MARY

... PETITIONERS/ACCUSED 2 to 4

Vs

THE STATE REP.BY,
THE INSPECTOR OF POLICE,
JAIHINDPURAM POLICE STATION,
MADURAI DISTRICT
CR.NO.1270 OF 2016

... RESPONDENT / COMPLAINANT

BARAKKATH NISHA

...INTERVENER/DEFACTO COMPLAINANT.

For Petitioner : M/S.J.ANANDHAVALLI Advocate

For Respondent : Govt. Advocate (Crl. Side)

For Intervenor : MR.D.ANBARASU,Advocate

PETITION FOR BAIL Under Sec. 439 Cr.P.C.

ORDER : The Court Made the following order :-

The petitioners, who were arrested and remanded to Judicial custody on 28.10.2016 for the offences punishable under Sections 406, 420, 109 of IPC., and Section 50 of Juvenile Justice Act, altered into Sections 506, 420, 109, 317, 370(1) of IPC., in Crime No.1270 of 2016, seek bail.

2. I have heard the learned counsel appearing on either side and perused the materials available on record.

3. Perusal of the record would show that initially the case was registered by the respondent Police on the complaint of the defacto complainant's, who is the mother of the child, as child missing in Crime No.1270 of 2016, dated 10.09.2016 then altered into Section 50 of Juvenile Justice Act and Sections 406, 420 and 109 of IPC., and then altered into Section 50 of Juvenile Justice Act and Sections 406, 420, 109, 317, 370(1) of IPC.

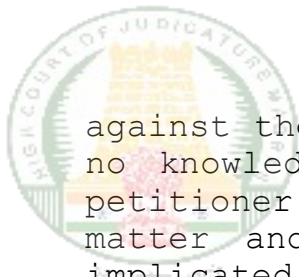


4. The learned Government Advocate (crl.side) appearing for the Respondent would submit that there are totally six accused in this case, as per the alteration report and the petitioners herein are A2 to A4 respectively. A2 is the wife of A1, who is the running a Home viz., "ABODE" (Akhil Bhartiya Organization for Development Education) at Arasaradi, Madurai District; A3 is the daughter of A2 and A4 is the husband of A3; A3 and A4 are the Trustees of the Home; that during investigation it came to light that A1 is the Chairman of the above Home; A3 is the Managing Trustee and A2 is the Finance Trustee of the said Home under a Registered document, dated 24.06.2013 and A2, who is the wife of A1 was with a Child Hasina / victim girl admitted for treatment at Vadamalaiyan Hospital for four days and thereafter, A1 and A2 took the said child from that hospital and the said child was handed over by A1 to another Home known as, "Love and Care" children Home at Madurai; that the said child was rescued by the Government Agency from the above Home and handed over to another Home known as "Sinthankoodam Home" at Kallukudi, as ordered by this Court on 07.11.2016 in HCP(MD)No.1164 of 2016, since the child has refused to go with the defacto complainant in that case and her husband. It is further stated that this Court has further ordered on 09.11.2016 in the Division Bench of this Court in HCP(MD)No.1164 of 2016 that the petitioner / defacto complainant and the 3rd respondent / husband are at liberty to approach the civil Court to resolve the dispute regarding the custody of the detainee / child and until any order either interim or final is passed by a civil Court, the child shall continue in the said Home.

5. Thereafter the learned counsel appearing for the "Love and Care Home" in the said HCP proceedings has submitted before the Division Bench of this Court that the child produced before the Court is not the daughter of the petitioner / defacto complainant or 3rd respondent / husband and the said child is the daughter of one Late Balaru, Karuvanallur Village, Natham Road, Madurai and Mrs. Selvi made an application to the District Child Welfare Committee, which refused to hand over the child. Hence, the Division Bench of this Court has directed to take all these parties for DNA Examination and came up with DNA report in respect of patronage of the said child.

6. The learned counsel for the intervenor has also reiterates the same contention advanced by the learned Government Advocate (crl.side). He would further states that the said HCP is still pending. The DNA report of the said child is awaited.

7. The counsel for the petitioners / accused states that the name of the accused did not find a place in the FIR and the complaint given by the defacto complainant is only against her and not against the petitioners herein and there is no specific overt act against the petitioners herein and no offence is made out



against the petitioners. Even as per the FIR, the petitioners have no knowledge and nothing to do with the crime; that the first petitioner is neither trustee nor or does she have any role in the matter and since she is the wife of A1, she has been falsely implicated in this case.

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8. The learned Government Advocate (crl.side) further states that one Mr.Murugesan, The Additional Deputy Superintendent of Police has been investigating the case in which sections were altered into the Provisions of Juvenile Justice Act and other appropriate provisions and the investigation is still pending because of the order of the Division Bench of this Court. The petitioners were arrested and remanded to judicial custody on 28.10.2016.

9. The dismissal order of the bail application passed by the Sessions Court is produced before this Court, in which it is stated that the petitioners are the trustee of the "Abode" Child Welfare Organisation in which A1 / Husband of A2, who is the Chairman / founder Secretary of the "Abode" Home. The order passed on different dates in HCP.(MD)No.1164 of 2016 by the Division Bench of this Court is produced by the defacto complainant for perusal of this Court. The parentage of the child produced and kept in the Home is to be decided and it is pending for DNA examination as per the orders of this Court.

10. Considering the above facts and circumstances of the case and also the grave nature of the accusation against the petitioners herein, this Court is not inclined to grant bail to the petitioners, at this stage. Hence, this Petition is dismissed.

sd/-

03/01/2017

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Sub-Assistant Registrar (C.S.)
Madurai Bench of Madras High Court,
Madurai - 625 023.

TO

1 THE INSPECTOR OF POLICE, JAIHINDPURAM POLICE STATION,
MADURAI DISTRICT

2 THE ADDL.PUBLIC PROSECUTOR
MADURAI BENCH OF MADRAS HIGH COURT, MADURAI.

3 THE SUPERINTENDENT, CENTRAL PRISON, MADURAI.

+1. CC to M/S.J.ANANDHAVALLI Advocate SR.No.595

ORDER

IN

CRL OP(MD) No.22005 of 2016

Date :03/01/2017