

IN THE HIGH COURT OF JUDICATURE AT MADRAS
DATED : 04.10.2018

CORAM :
THE HONOURABLE MR. JUSTICE P.N.PRAKASH

CRL.O.P.No.23551 of 2018 and
Crl.M.P.No.13240 of 2018

1.Kanniappan
2.Nirmala devi
3.Mahendran

.. Petitioners/Accused

Vs

1.The State represented by
The Inspector of Police,
Tiruchengode Rural Police Station,
Namakkal District.

2.P.Palanisamy .. Respondents/complainant

Criminal Original Petition filed under Section 482 Cr.P.C.,
praying to call for the records of charge sheet in C.C.No.125 of
2018 on the file of the Judicial Magistrate, Tiruchengode and
quash the same.

For Petitioners : Mr.P.Tamilavel

For R1 : Mrs.M.Prabhavathi
Addl. Public Prosecutor

ORDER

This Criminal Original Petition has been filed to call for
the charge sheet in C.C.No.125 of 2018 on the file of the
Judicial Magistrate, Tiruchengode and quash the same.

2. On the complaint lodged by the 2nd respondent, the
1st respondent police have registered a case in Crime No.70 of
2016 and after completion of the investigation, have filed a
charge sheet in C.C.No.125 of 2018, before the Judicial
Magistrate Court, Tiruchengode, for the offences under Sections
341, 427, 363, 506(i) IPC, for quashing which, the petitioners
are before this Court.

3. Heard Mr.P.Tamilavel, learned counsel for the petitioners
and the learned Additional Public Prosecutor, appearing for the
1st respondent police.

4. It is the case of the prosecution that the son of
Kanniappan and Nirmala devi got married to Deepika and they have

a child by name Logith. Deepika's husband died. The parents of Deepika were making arrangements for her remarriage. On coming to know of this, it is alleged that the petitioners intercepted the school bus, in which Logith was travelling on 12.03.2016 and forcibly kidnapped him. Hence, on the complaint lodged by the bus driver, an FIR has been registered and prosecution has been launched against the petitioners.

5. The learned counsel for the petitioners submitted that Deepika is now married and the petitioners are not causing any hindrance to her.

6. Be that as it may, the fact remains that on 12.03.2016, the petitioners have allegedly kidnapped the child, while the child was going to the school. Thus, when there are prima facie materials in the charge sheet, the same cannot be quashed at the threshold.

7. Hence, this Criminal Original Petition is dismissed with liberty to the petitioners to raise all the points before the trial Court, after the charges are framed. The presence of Kanniappan and Nirmala devi, the 1st and 2nd petitioners alone, before the trial Court, shall be dispensed with, on condition that, they shall be present for receiving the complaint under Section 207 Cr.P.C., for answering the charge, at the time of questioning under Section 313 Cr.P.C. and at the time of passing judgment. For the other hearings, they shall file a petition before the trial Court under Section 317 Cr.P.C., giving an undertaking that they will not dispute their identity and that the counsel named by them in the affidavit will cross-examine the prosecution witnesses on the day they are examined-in-chief, as held by the Supreme Court in Vinod Kumar vs. State of Punjab [2015(1) MLJ (Cr1) 288]. On such application being filed, the trial Court may liberally consider the same. If the accused/petitioners adopt any dilatory tactics, it is open to the trial Court to insist upon their presence and remand them to custody as laid down by the Supreme Court in State of Uttar Pradesh vs. Shambhu Nath Singh [JT 2001 (4) SC 319]. If the accused/petitioners abscond, the trial Court shall direct registration of an FIR against them under Section 229-A IPC. Consequently, connected Miscellaneous Petition is closed.

Sd/-
Assistant Registrar(CS V)

//True Copy//

Sub Assistant Registrar

mkn

To

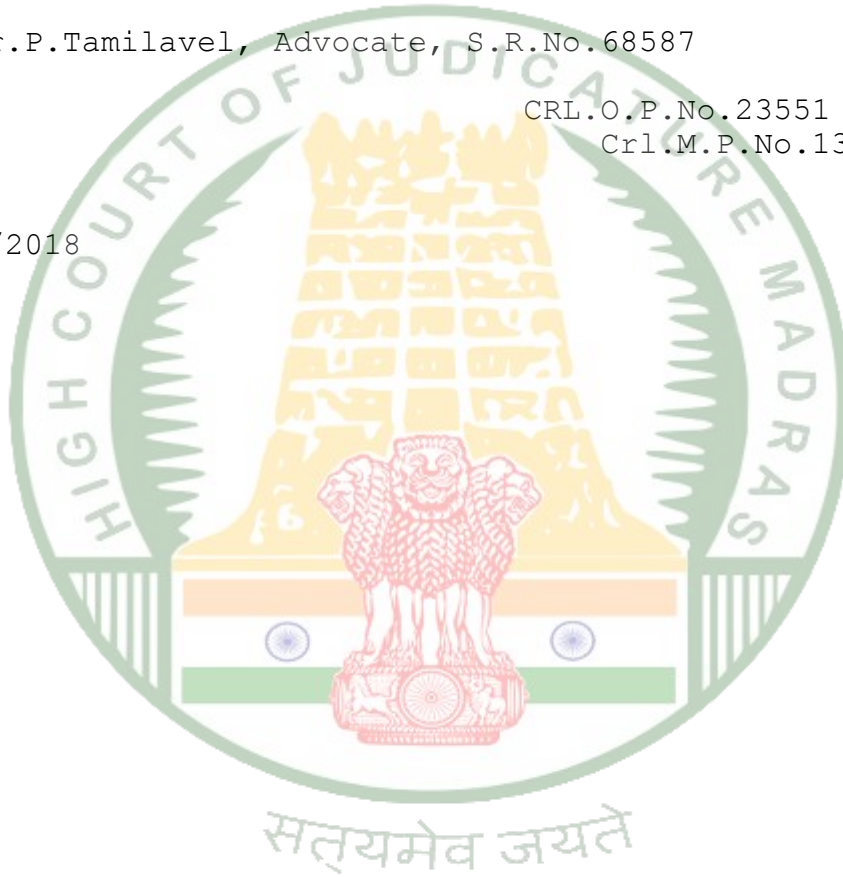
1. The Inspector of Police,
Tiruchengode Rural Police Station,
Namakkal District.
2. The Judicial Magistrate Court,
Tiruchengode.
3. The Public Prosecutor,
High Court, Madras.

+lcc to Mr.P.Tamilavel, Advocate, S.R.No.68587

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GJ(CO)

rrs 25/10/2018



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