

IN THE HIGH COURT OF JUDICATURE AT MADRAS
DATED : 05.04.2019
CORAM:

THE HON'BLE MR.JUSTICE M.NIRMAL KUMAR

CRL.O.P.No.10093 of 2013 and
Crl.M.P.No.1 of 2013

1.A.Surendrakumar
2.Athiyappan
3.Mani
4.Srinivasan ... Petitioners

Versus

1.State by Inspector of Police,
Thalaivasal Police Station,
Thalaivasal,
Salem District.
Crime No.505 of 2011.

2.S.Sundaram ... Respondents

PRAYER : Criminal Original Petition filed under Section 482 of the Code of Criminal Procedure, to call for the records in respect of the FIR registered by the 1st respondent in Crime No.505 of 2011 and quash the same.

For Petitioners : Mr.R.Nalliyappan

For R1 : Mr.Hari Hara Arun Somasankar
Government Advocate [Crl. Side]

For R2 : Mr.S.Kaithamalai Kumaran

ORDER

This Criminal Original Petition has been filed to quash the FIR in Crime No.505 of 2011, on the file of the 1st respondent Police.

2.The 1st petitioner is son of 2nd and 3rd petitioner, the 4th petitioner is neighbour of the other petitioners. The 2nd respondent is father of victim girl viz., Thillaikarasi, who is wife of the 1st petitioner. Case of the prosecution is that, on 16.05.2011, the 2nd respondent

had lodged a complaint before the 1st respondent stated that his daughter Thillaikarasi studying B.A at Bharathiyar College, Salem, went missing on 15.05.2011 at about 01.45 p.m. He searched in his relatives house and she has not found. Therefore, he had lodged a complaint before the 1st respondent. On receipt of the same, the 1st respondent registered an FIR in Crime No.505 of 2011.

3. On 17.05.2011, the 1st respondent got an information that the 1st petitioner along with the 2nd respondent's daughter Thillaikarasi were near Veppur Bus Stand. On basis of the complaint given by the 2nd respondent, the 1st respondent apprehended both the persons. On enquiry, it came to light that, on 15.05.2011, the 2nd respondent's daughter Thillaikarasi has been taken by the 1st petitioner by his two wheeler to Thalaivasal. Next day i.e., 16.05.2011, the 1st petitioner and the said Thillaikarasi had gone to Samayapuram Temple for their marriage, the parents of the 1st petitioner had come to conduct their marriage. After the marriage, both of them planned to go to some other places to start their matrimonial life, but the 1st respondent arrested the 1st petitioner and remanded him to Judicial Custody.

4. The learned counsel for the petitioners submits that the 1st petitioner and the said Thillaikarasi were in love with each other for a long time. Due to financial status and community difference, the 2nd respondent opposed their marriage. He further submitted that when the above said fact was come to the knowledge of the the second respondent i.e. the father of Thillaikarasi hurriedly arranged a marriage for his daughter with a stranger and hence she called upon the 1st petitioner to rescue her. On the instruction of Thillaikarasi, the first petitioner and the said Thillaikarasi have performed their marriage before their relatives, friends and others at Samayapuram Temple and after that, there was no physical relationship between them. He further submitted that the said Thillaikarasi had come out of her house voluntarily, therefore, the offence under Sections 366(A) and 376 could not be attracted.

5.Today i.e., 05.04.2019, the 1st petitioner and the said Thillaikarasi have appeared before this Court and this Court enquired them and they submitted that, they were in love and got marriage on 16.05.2011 at Samayapuram Temple, against the wishes of the parents of Thillaikarasi. They further submitted that after the marriage, they are living happily and due to their wedlock they have two children aged about 7 and 6 years respectively and submitted the date of birth certificate, Aadhar Card and School Certificate of their children and also filed an affidavit to that effect. They also made a representation to the 1st respondent Police about the same.

6.The learned Government Advocate [Crl. Side] appearing for the 1st respondent submitted that the victim girl Thillaikarasi submitted the representation that she is living happily along with 1st petitioner, out of their wedlock they have two children and they are attending school. Now, her marriage life is peaceful and she does not want to disturb her matrimonial life. On such representation made by the victim girl Thillaikarasi, the investigation in this case could not be proceeded with. He further submitted that the 1st respondent police had referred her to Government Hospital and she was physically examined by Doctor and it was found that there was no physical assault on her.

7.The learned counsel for the 2nd respondent submitted that his daughter married the 1st petitioner and now, she is happily living now. The complaint has been given by the 2nd respondent when he was in a stage of shock due to missing of his daughter. Thereafter, he came to know that his daughter had gone with the 1st petitioner and got married at Samayapuram Temple. Therefore, the entire complaint initiated by the 2nd respondent was in an emotional situation and he was not in a position to comprehend the reality.

8.Considering the submissions made by the 1st petitioner and the victim girl Thillaikarasi and on perusal of the materials produced before this Court, it is seen that the 1st petitioner and the victim Thillaikarasi are living as husband and wife with two school going children.

9.In view of the same, the investigation in Crime No.506 of 2011 on the file of the 1st respondent is quashed. Accordingly, this Criminal Original Petition is allowed. Consequently the connected miscellaneous petition is closed.

Sd/-
Assistant Registrar(CS)

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Sub Assistant Registrar

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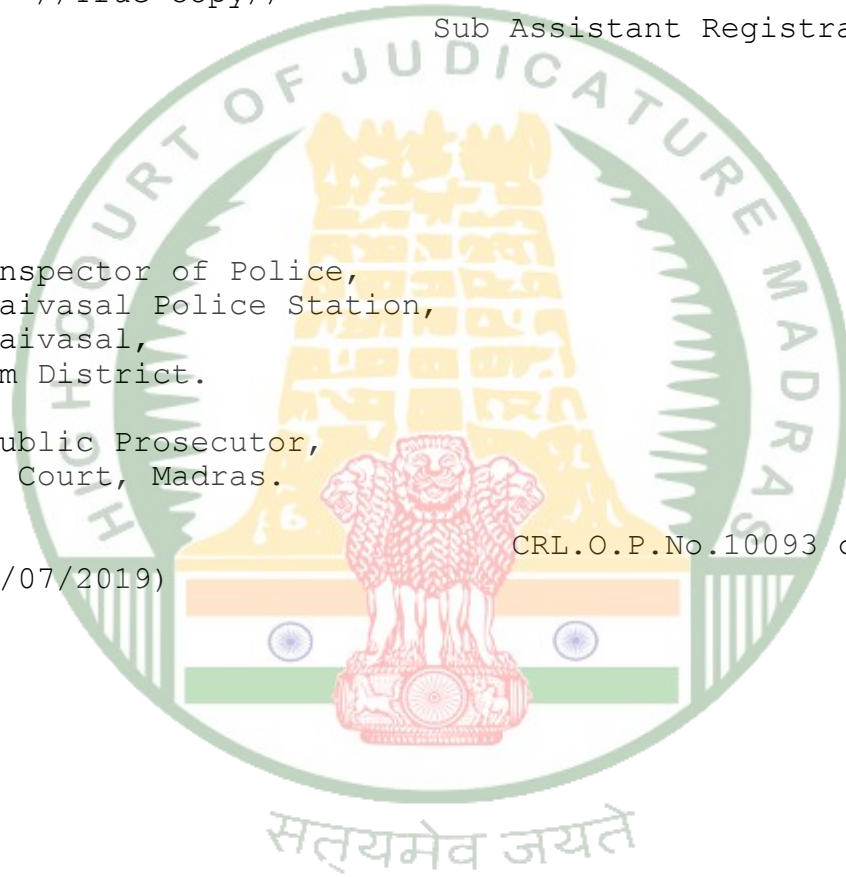
To

1.The Inspector of Police,
Thalaivasal Police Station,
Thalaivasal,
Salem District.

2.The Public Prosecutor,
High Court, Madras.

CRL.O.P.No.10093 of 2013

A.SK(15/07/2019)



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