



**BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT**

**DATED : 18.12.2019**

**CORAM :**

**THE HONOURABLE MR.JUSTICE G.R.SWAMINATHAN**

**Crl OP(MD)No.4628 of 2016**

**and**

**Crl MP(MD)No.2314 of 2016**

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- 1.P.Sundaresan
- 2.Jeyalakshmi
- 3.Bharathi

... Petitioners / Accused Nos.1 to 3

**Vs.**

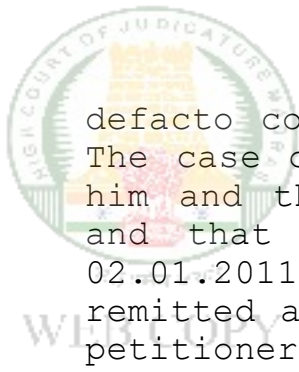
- 1.The Director General of Police,  
Office of the Director General of Police,  
Kamarajar Salai, Chennai.
- 2.The Inspector General of Police,  
South Zone, Madurai.
- 3.The Superintendent of Police,  
Office of the Superintendent of Police, Madurai.
- 4.The Inspector of Police, All Women Police Station,  
Melur, Madurai District.
- 5.The Inspector of Police, B1- Melur Police Sttion,  
Madurai District. (Crime No.867 of 2015)
- 6.Special Sub Inspector of Police,  
Melur Police Station, Madurai.  
...Respondents 1 to 6/Complainant
- 7.E.Palanivelrajan ... Respondent No.7/ Defacto Complainant

**Prayer :** Criminal Original Petition is filed under Section 482 of Criminal Procedure Code, to call for the records relating to the proceedings in Crime No.867 of 2015 on the file of the B1 Melur Police Station/5<sup>th</sup> Respondent and quash the same.

For Petitioners : Mr.R.Rajaram  
For Respondents : Mr.A.Robinson,  
Government Advocate (crl.side)  
for R1 to R6  
Mr.R.Jegadeeswaran for R7

**ORDER**

The petitioners herein are shown as Accused in Crime No.867 of 2015 on the file of the B1-Melur Police Station, Madurai. The



defacto complainant Thiru.E.Palanivelrajan is an army personnel. The case of the defacto complainant is that the marriage between him and the third petitioner herein was performed on 25.03.2010 and that a girl child was also born through the wedlock on 02.01.2011 and that during the period from 2011 to 2014, he had remitted a sum of Rs.11,90,344/- in the bank account of the third petitioner herein.

2.It is his specific allegation that the petitioners herein did not honour the purpose for which the moneys were remitted. The marriage relationship between Bharathi and Palanivelrajan came under strain and they separated and there were institution of proceedings against each other. Palanivelrajan filed HMOP No.128 of 2015 before the Sub Court (Camp), Melur seeking dissolution of marriage. He had also lodged a criminal complaint alleging breach of trust and misappropriation of the moneys remitted by him. Bharathi also filed a maintenance case in M.C No.28 of 2014 on the file of the Additional Chief Judicial Magistrate, Madurai. The maintenance case was partly allowed on 20.02.2015. While the claim of Bharathi was negatived, Palanivelrajan was directed to pay a sum of Rs.5,000/- per month to his minor child Nikitha. This order has not been challenged by Palanivelrajan and it has become final. HMOP filed by Palanivelrajan was allowed and the marriage between the too was dissolved. The allegations that are made subject matter of the impugned FIR were also levelled in the petition filed in HMOP No.128 of 2015. To quash the impugned FIR, this criminal original petition has been filed.

3.Heard the learned counsel on either side.

4.I also persuaded the parties to arrive at an amicable settlement. I am happy to note that the parties have arrived at an amicable settlement in the following terms :

(i)the petitioners herein agreed to pay a sum of Rs.3.00 lakhs to Palanivelrajan within a period of four weeks from the date of receipt of a copy of this order in his bank account number : 20049400163, IFSC Code : SBIN0000253, SBI Melur.

(ii)the minor child Nikitha is also present before me. It is obvious that the third petitioner who is the mother of the minor child can very well represent her. Since the defacto complainant is foregoing his major part of the claim against the petitioners herein, Thiru.Palanivelrajan is relieved of the legal responsibility of paying any further amount towards the education and marriage of his minor daughter Nikitha. Of course, it is open to the defacto complainant to contribute voluntarily and on his own to the child. He is only exonerated of his legal



liability.

(iii)the petitioners also forego their claim of arrears of monthly maintenance from Palanivelrajan. However, he will have to remit the amount of Rs.5,000/- in the bank account of the third petitioner till the minor child Nikitha attains majority and gets married. Thereafter, he shall deposit in her account. The bank details of the third petitioner is as under :

*"Nikitha P. By Mng Bharathi S, Ac No.37662510696, IFSC Code. SBIN0000253.*

(iv)the defacto complainant insisted that his daughter should get the benefit available under Ex.Serviceman category. No authority can deny that Nikitha is the daughter of an army man. After Palanivelrajan retires from army, she would definitely be entitled to ex.serviceman quota. Merely because the address of Nikitha in her Aadhar card does not reflect the address of Palanivelrajan, her status cannot in any way be altered.

(v)Since the parties have amicably resolved the issue between themselves in the above terms, the impugned FIR stands quashed. It is made clear that Palanivelrajan will not have any claim whatsoever against the petitioners herein. Likewise, the petitioners also will not have any claim against Palanivelrajan.

(vi)The only liability of the defacto complainant is to honour the maintenance case order made in favour of the minor Nikitha by the learned Additional ChiefJudicial Magistrate, Madurai in MC No.28 of 2014. It is stated that the two wheeler gifted by the petitioners herein standing in the name of Palanivelrajan is with the petitioners herein. Since the defacto complainant apprehends that he will be fastened with liability, the petitioners agreed to effect name transfer immediately and without any delay. The defacto complainant agrees to sign in the relevant papers. The petitioners' counsel agrees to file a memo in the Registry of this Court after name changing is effected.

(vii)the petitioners also agreed that the defacto complainant being the father of the minor child is entitled to visitation rights.



5.In view of the same, the impugned FIR is quashed and the above O.P is allowed on the terms set out above.

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Sd/-

Assistant Registrar (P&A)

/ /2020

Sub Assistant Registrar(CS)

Skm

To

- 1.The Director General of Police,  
Office of the Director General of Police,  
Kamarajar Salai, Chennai.
- 2.The Inspector General of Police, South Zone, Madurai.
- 3.The Superintendent of Police,  
Office of the Superintendent of Police, Madurai.
- 4.The Inspector of Police, All Women Police Station,  
Melur, Madurai District.
- 5.The Inspector of Police,  
B1- Melur Police Sttion,  
Madurai District.
- 6.Special Sub Inspector of Police,  
Melur Police Station, Madurai.
- 7.The Additional Public Prosecutor  
Madurai Bench of Madras High Court, Madurai

+1 CC to Mr.R.RAJARAMAN, Advocate ( SR-105771[F] dated  
19/12/2019 )

+1 CC to Mr.R.JEGADEESHWARAN, Advocate ( SR-105778[F] dated  
19/12/2019 )

**Crl OP(MD)No.4628 of 2016**

**and**

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