



IN THE HIGH COURT OF JUDICATURE AT MADRAS  
DATED: 08-01-2020  
CORAM:

WEB COPY

THE HON'BLE MR.JUSTICE P.VELMURUGAN

Crl.O.P.No.18393 of 2013  
and  
Crl.M.P.No.1 of 2013

1.P.Subramaniam

2.R.Senthil

... Petitioners

Vs.

The State by Inspector of Police,  
All Women Police Station,  
Kangayam,  
Tiruppur District.

...Respondent

(Crime No.9 of 2013)

Prayer: Criminal Original Petition filed under section 482 of Criminal Procedure Code, to call for the records relating to the criminal case in C.C.No.212 of 2013 on the file of the learned Judicial Magistrate, Kangayam, quash the same by allowing this Criminal Original Petition.

For Petitioners : Mr.N.Manokaran

For Respondent : Mr.R.Ravichandran  
Government Advocate (Crl.side)

#### O R D E R

The respondent Police registered a case against the petitioners for engaging the child labourers in Crime No. 9 of 2013. After investigation, the respondent Police laid a charge sheet in P.R.C.No.23 of 2013 before the learned Judicial Magistrate, Kangayam. The learned Magistrate took cognizance of the charge sheet in C.C.No.212 of 2013. Aggrieved by the same, the petitioner has filed the present petition with the aforesaid prayer.

2.The learned counsel for the petitioner among other things submitted that the after medical examination of the victims, the Doctor has certified that the victims have completed 16 years of age and therefore Section 26 of the Juvenile Justice (Care and Protection of Children) Act, would not attract. Therefore, the charge sheet has to be quashed.



3.The learned Government Advocate (Crl.side) would submit that the Doctor has given a certificate stating that one victim is aged 16 years and another one is aged in between 12 to 14 years. He further submitted that the grounds raised by the petitioner whether the certificate given by the Doctor is genuine or not are the matters for trial and it cannot be tested before this Court. Therefore, the petition to be dismissed.

4.Heard both sides and perused the materials available on record.

5.Admittedly, the respondent Police registered a case against the petitioners for the offence under Section 374 IPC and Section 26 of the Juvenile Justice (Care and Protection of Children) Act, 2000, for engaging two girl children aged below 14 years for employment. After investigation, charge sheet has been laid before the learned Judicial Magistrate, Kangeyam, and the learned Magistrate has taken cognizance of the charge sheet in C.C.No.212 of 2013.

6.On a perusal of the documents, it reveals that the allegation levelled against the petitioners is that they have engaged two girl children aged below 14 for employment. Even according to the petitioners, the Doctor has certified that one victim girl has completed 16 years and another is in between 12 to 14. However, there are no records to show the age of the victims and all these matters are to be decided by the Trial Court. The parents of the victims will be able to produce birth certificate or any school certificate. In the absence of any such records, the Doctor's certificate will be taken into for deciding the age of the child. Therefore, under these circumstances, the defence taken by the petitioner cannot be decided by this Court invoking Section 482 Cr.P.C. When there is a prima facie allegation against the petitioners and the investigation also reveals that the petitioners have engaged two girl children aged below 14 years for employment, this Court is not inclined to quash the proceedings by invoking 482 Cr.P.C. Accordingly, this Criminal Original Petition is dismissed. Consequently, connected miscellaneous petition is also closed.

7.Since, the calendar case in C.C.No.212 of 2013 is pending from the year 2013 onwards, the learned Judicial Magistrate, Kagayam, is directed to dispose of the case on merits and in accordance with law within three months from today.

Sd/-  
Assistant Registrar(CS)

//True Copy//

Sub Assistant Registrar



To:

1.The State by Inspector of Police,  
All Women Police Station,  
Kangayam,  
Tiruppur District.  
(Crime No.9 of 2013)

2.The Judicial Magistrate,Kancheepuram.

3.The Public Prosecutor,  
High Court,  
Madras.

+1cc to Mr.N.Manokaran , Advocate SR.No. 2173

Crl.O.P.No.18393 of 2013

A.SK(10/01/2020)