



BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

DATED: **23.07.2020**

CORAM:

THE HONOURABLE MR.JUSTICE **R. PONGIAPPAN**

CrI.O.P. (MD)No.7621 of 2020

and

CrI.M.P. (MD)No.3652 of 2020

WEB COPY

1.Kasiviswanathan

2.Mahadevi

... Petitioners/Accused Nos.1 and 2

Vs.

1.State Rep.by its

The Inspector of Police,
Sedapatty Police Station,
Madurai District.

...1st Respondent/Complainant

2.Pandiraja

...2nd Respondent/Defacto Complainant

PRAYER : Criminal Original Petition is filed under Section 482 of Cr.P.C., praying to call for the records pertaining to the FIR in Crime No.36 of 2020 on the file of the respondent police and quash the same as illegal as against the petitioners are concerned.

For Petitioners

: Mr.J.Jeyakumaran

For R-1

: Mr.S.Chandrasekar

Additional Public Prosecutor

O R D E R

This criminal original petition has been filed to call for the records pertaining to FIR registered in crime No.36 of 2020 on the file of the respondent police and quash the same as illegal.

2.The learned counsel appearing for the petitioners would submit that the petitioners are permanent residents of Mela Theru, Kuppal Natham Post, Peraiyur Taluk, Madurai District. After marriage they have not any issues. When the petitioners were working in Hyderabad, they have adopted a female child with the consent of the natural parents of the child, who are arrayed as A3 and A4 in this case. Further submission of the petitioners is that since the child is now in the custody of the petitioners with the consent of the parents, the offence under Section 80 of the Juvenile Justice (Care and Protection of Children)Act, 2015 does not made out. Accordingly, they pray to quash the proceedings initiated against them in crime No.36 of 2020 on the file of the respondent



police.

3.The learned Additional Public Prosecutor appearing for the first respondent police would submit that after the occurrence, while disposing a petition in H.C.P.(MD)No.143 of 2020, dated 20.03.2020, this Court directed the petitioners to regularize the adoption made by them. Though there was a direction, as of now, the petitioners have not taken any steps to regularize the adoption and therefore, it cannot be said that the offence under Section 80 of the Juvenile Justice (Care and Protection of Children)Act, 2015 is not attracted.

4.Upon considering the rival submissions advanced by the learned counsel appearing on either side, it is not in dispute that the petitioners adopted the female child, only after obtaining necessary permission from the natural parents of the child. However, for making adoption, the petitioners have to follow the procedure laid down already. This Court also directed the petitioners to appear before Juvenile Justice Board and the Child Welfare Committee for regularizing the adoption by filing necessary application before the competent Authority. Instead of complying the direction given by this Court, filing this petition to quash the proceedings initiated in crime No.36 of 2020 is unwarranted.

5.At the outset, for the reasons stated above, the petition filed by the petitioners is not maintainable and thereby, this criminal original petition is dismissed with a liberty to file a fresh application to quash the First Information Report registered in crime No.36 of 2020, after regularization of the adoption, which was directed earlier on 20.03.2020 while disposing H.C.P.(MD)No.143 of 2020. Consequently, connected miscellaneous petition is closed.

Sd/-

Assistant Registrar (Records)

// True Copy //

/ /2020

Sub Assistant Registrar(CS)

gns

Note : In view of the present lock down owing to COVID-19 pandemic, a web copy of the order may be utilized for official purposes, but, ensuring that the copy of the order that is presented is the correct copy, shall be the responsibility of the advocate/litigant concerned.



To

1.The Inspector of Police,
Sedapatty Police Station,
Madurai District.

WEB COPY

2.The Additional Public Prosecutor,
Madurai Bench of Madras High Court,
Madurai.

Crl.O.P. (MD)No.7621 of 2020

KK(30.07.2020) 3P 3C