



BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

Dated: 01.09.2021

CORAM

THE HONOURABLE MRS. JUSTICE **T.KRISHNAVALLI**

Crl.RC(MD)No.490 of 2021

and

Crl.MP(MD)No.5252 of 2021

WEB COPY

Gopinath

: Petitioner/Revision Petitioner

Vs.

1.The State rep. by
The Inspector of Police,
Palani Chettipatti Police Station,
Theni District.

: R1/Complainant

2.Clorina Bhuyan

: R2/Victim

Prayer: Criminal Revision filed under sections 397 and 401 of the Code of the Criminal Procedure against the order passed in Crl.MP No.2281 of 2021, dated 05.07.2021 on the file of the Judicial Magistrate, Theni.

For Petitioner : Mr.R.Shankar Ganesh
for M/s.Dictum Law Firm

For 1st Respondent : Mr.RMS.Sethuraman
Standing Counsel for State
(Crl. Side)

O R D E R

This Criminal Revision is directed against the order passed in Crl.MP No.2281 of 2021, dated 05.07.2021 by the Judicial Magistrate, Theni.

2.The case of the prosecution is that on 27.04.2021 at 2.00 pm, when the de-facto complainant booked a room in a Hotel at Theni, A2 solicited him for prostitution availing the 2nd respondent herein, who is the wife of the revision petitioner and other victim women. A1 is the Manager of the Hotel. Based on the complaint given by the de-facto complainant, a case in Crime No.187 of 2021 was registered against the accused persons and the victim girls were sent to the Madurai Government Women Care Centre. The petitioner, being the husband of the 2nd respondent/victim, filed a petition in Crl.M.P No.2281 of 2021 on the file of the Judicial Magistrate, Theni, seeking custody of the 2nd respondent/victim. The learned Judicial



Magistrate, by order, dated 05.07.2021 dismissed the said petition and issued a direction to send the 2nd respondent/victim to a Government Women Care Centre at Madurai, for a duration of 1 year. Aggrieved by the said order, the petitioner is before this court.

3. Heard the learned counsel appearing on either side and perused the materials available on record.

4. It is the main contention of the petitioner that the 2nd respondent is his wife and now, their children is in the Child Welfare Home and she needs care and love of her mother, who is the 2nd respondent herein, but the trial court without considering the above facts, has erroneously passed the impugned order and hence, the impugned order is liable to be set aside.

5. It is not in dispute that the petitioner is the husband of the 2nd respondent/victim. It is seen from the report of the Probationary Officer that the 2nd respondent is the wife of the petitioner and the 2nd respondent is willing to get back her normal life and the petitioner is also willing to lead the normal life with the 2nd respondent along with his 3 years old child, now in the Child Welfare Home. But the trial court, without appreciating the report of the Probationary Officer in a proper manner, has passed the impugned order, which is not correct. Keeping in view of the above facts and also for the welfare of the child, the impugned order passed by the trial court is liable to be set aside.

6. In the result, this Criminal Revision is allowed. The impugned order passed in Crl.MP No.2281 of 2021, dated 05.07.2021 by the Judicial Magistrate, Theni, is set aside. It is directed that the custody of the 2nd respondent/victim be handed over to the petitioner, who is the husband of the victim, after obtaining necessary undertaking/affidavit that she will cooperate for the investigation and trial. Consequently, connected Miscellaneous Petition is closed.

Sd/-

Assistant Registrar (CS-I)

// True Copy //

/ /2021

Sub Assistant Registrar(CS)

er

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 Judicial Magistrate, Theni.

2.The Inspector of Police,
Palani Chettipatti Police Station,
Theni District.

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

Copy to

The Section Officer,
Criminal Section (Records),
Madurai Bench of Madras High Court, Madurai.

+1 CC to M/s.DICTUM LAW FIRM, Advocate (SR-27938[F] dated
02/09/2021)

CrI.RC(MD)No.490 of 2021
01.09.2021

RK (13.09.2021) 3P 7C