



BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT
DATED: 05.01.2021

CORAM

THE HONOURABLE **MRS.JUSTICE J.NISHA BANU**

Crl.O.P. (MD)No.14201 of 2020

K.Vijayakumar

... Petitioner

Vs.

1.Gokila,

The Inspector of Police,
Muthaiahpuram Police Station,
Tuticorin District.

2.Maria Irudhayaraj,

The Special Sub Inspector of Police,
Special Branch, Tuticorin.

3.Anthoniraj,

The Special Sub Inspector of Police,
Special Branch, Tuticorin.

4.Sermaraj

Writer,
Muthaiahpuram Police Station,
Tuticorin.

... Respondents

Prayer : Criminal Original Petition filed under Section 482 Cr.P.C., to set aside the return endorsement, dated 20.11.2020 made by Judicial Magistrate Court No.1, Tirunelveli returning the unnumbered Cr.M.P.No./2020 and direct the Judicial Magistrate Court No.1, Tirunelveli to take the private complaint on file and dispose the same in accordance with law, and also as per the provisions of Section 200 Cr.P.C.

For Petitioner

: Mr.N.Ananthapadmanabhan

ORDER

This criminal original petition has been filed to set aside the return endorsement, dated 20.11.2020 made by Judicial Magistrate Court No.1, Tirunelveli returning the unnumbered Cr.M.P.No. /2020 and direct the Judicial Magistrate Court No.1, Tirunelveli to take the private complaint on file and dispose the same.

2.The case of the petitioner is that he is a practicing Advocate and on 03.12.2019, the first respondent herein, with a help of other police officials, abducted the petitioner herein with a help of Police in a Mahindra Xylo on 03.12.2019 at 1.00 pm from

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Hotel Saravana Bhavan at Tirunelveli and kept him in illegal custody for more than 37 hours. Further, the first respondent brutally assaulted the petitioner and removed all the jewelry worn by the petitioner in order to show as if the jewelry recovered in connection with a criminal case. Thereafter, the petitioner's father filed Habeas Corpus Petition before this Court and in order to escape from the vigilant scrutiny, the respondents herein foisted a false case against the petitioner and remanded the petitioner to custody.

3.The learned counsel appearing for the petitioner would submit that the petitioner approached the Additional Director of General of Police, Law and Order, Chennai for appropriate action, the same was transmitted to the Additional Superintendent of Police, Tuticorin for enquiry. Thereafter, the petitioner filed a private complaint before the Judicial Magistrate Court No.1, Tirunelveli on 18.11.2020. The petitioner has categorically mentioned the place where he was confronted, restrained and abducted by the police and filed the private complaint. He would further submit that in the complaint, the petitioner specifically mentioned the abduction took place near Hotel Saravana Bhavan at Tirunelveli and therefore, as per Section 181 (2) Cr.P.C., the learned Magistrate have to take the complaint on file. However, the Judicial Magistrate Court No.1, Tirunelveli rejected the private complaint stating that the occurrence had taken place, within the limits of Thermal Nagar Police Station at Tuticorin and returned the complaint at the threshold. The learned counsel appearing for the petitioner would further submit that the Court below returned the complaint by total non-application of mind as the occurrence had taken place within the jurisdiction and therefore, the petitioner filed this petition seeking for the aforesaid relief.

4.Section 181(2) Cr.P.C., reads as follows:-

"181. Place of trial in case of certain offences -

(2) Any offence of kidnapping or abduction of a person may be inquired into or tried by a Court within whose local jurisdiction the person was kidnapped or abducted or was conveyed or concealed or detained"

5.Taking into consideration of the facts, which have been narrated above and considering the submission made by the learned counsel that the occurrence had taken place within the jurisdiction, this Court is inclined to set aside the return endorsement, dated 20.11.2020 made by Judicial Magistrate Court No.1, Tirunelveli. Accordingly, the return endorsement dated 20.11.2020 is set aside and the Court below is directed to take the private complaint on file and shall dispose of the same on its own merits and in accordance with law as expeditiously as possible.

6.This criminal original petition is allowed, on these terms.

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Registry is directed to return the original documents to the learned counsel appearing for the petitioner.

Sd/-

Assistant Registrar (AE)

// True Copy //

WEB COPY

/ /2021

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

The Judicial Magistrate Court No.1, Tirunelveli.

Copy to

The Section Officer,
ER Section

Madurai Bench of Madras High Court, Madurai

+1 CC to M/s.APN LAW ASSOCIATES, Advocate (SR-523[F] dated 07/01/2021)

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MJ(CO)

KB(09.02.2021) 3P 4C