



BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

DATED: 22.12.2021

CORAM:

THE HONOURABLE MR.JUSTICE G.R.SWAMINATHAN

Crl.O.P (MD)No.20081 of 2021

WEB COPY

Samuvel Charles

... Petitioner/ Sole Accused

Vs

1.The State rep. by
The Inspector of Police,
All Women Police Station,
Thoothukudi.
(Crime No.23 of 2021)

...1st Respondent/Complainant

2.Murugananthan

...2nd Respondent/
Defacto Complainant

3.xxxx

...3rd Respondent/victim

PRAYER: Petition filed under Section 482 Code of Criminal Procedure, to call for the records in Crime No.23 of 2021 on the file of the first respondent police and quash the same.

For Petitioner : Mr.N.Saravanan

For R1 : Mr.A.Albert James

Government Advocate (Crl.side)

For R2 & R3 : Mr.M.Solaisamy

ORDER

This Criminal Original Petition has been filed to quash the FIR in Crime No.23 of 2021 registered on the file of the first respondent.

2. The defacto complainant, victim as well as the victim's mother are present in person before me. They have been duly identified by Mrs.A.Sahayarani W Gr.I 603 attached to All Women Police Station, Thoothukudi. The defacto complainant, victim as well as the victim's mother do not want to pursue the complaint. As on date, the victim is still a minor. This case cannot be quashed on the strength of compromise between the parties.

3. I carefully went through the complaint as well as the statement of the victim recorded under Section 164 of Cr.P.C.

4. It is seen that the victim was in love with the petitioner and on the occurrence date, she had temporarily joined the petitioner. On the said date, the victim had accompanied the defacto complainant who is her uncle to Thiruchendur temple. Finding



that his niece was missing, the defacto complainant immediately lodged a complaint and within a very short while, the victim was secured. It appears that in the intervening period, the petitioner had tied thali around the victim's neck. This in my view cannot constitute marriage. I had an interaction with the victim and she frankly stated that she had voluntarily accompanied the petitioner. Section 363 will be attracted only if the accused had taken the minor. In this case, the minor who is aged 17 ½ years had voluntarily joined the petitioner.

5. Applying the ratio laid down in **S.Varadarajan Vs. State of Tamil Nadu 1965 AIR 942**, I hold that the act of the petitioner will not amount to taking. The petitioner also informs the Court that he will completely keep away from the victim and he will not interfere in her life. The undertaking of the petitioner is recorded. Since the elementary ingredients of the offences are not made out, the impugned FIR is quashed. This Criminal Original Petition is allowed.

Sd/-

Assistant Registrar (AD-I)

// True Copy //

/ /2022

Sub Assistant Registrar(CS)

rmi

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,
All Women Police Station,Thoothukudi.

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

+2 CC to M/s.N.SARAVANAN, Advocate (SR-40140[F] dated 23/12/2021)

Crl.O.P(MD)No.20081 of 2021
22.12.2021

PS (CO)

KB(01.02.2022) 2P 5C

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