



Crl. O.P. No.8326 of 2022

IN THE HIGH COURT OF JUDICATURE AT MADRAS

Dated: 6/7/2022

C O R A M

THE HONOURABLE MR.JUSTICE N. SATHISH KUMAR

Crl. O.P. No.8326 of 2022

P. Arunmani ... Petitioner

Vs

1. State
rep. By The Inspector of Police
Polur Police Station
Polur
Thiruvannamalai District.

2. D. Suresh ... Respondents

PRAYER : Criminal Original Petitions filed under Section 482 of Cr.P.C. to call for the records relating to Spl.S.C.No.53 of 2021 on the file of the Court of Mahila, Thiruvannamalai and quash the same.

For Petitioner ... Mr.T. Surya
For Respondents ... Mr.Leonard Arul Joseph Selvam
Government Advocate
(Criminal Side)
for R.1
No appearance for R.2

ORDER

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This Criminal Original Petition has been filed to quash Spl.S.C.No.53 of 2021, on the file of the Mahila Court, Thiruvannamalai, for the offences punishable, under Sections 376 of the Indian Penal Code and Sections 6, 8, 363, 366, 366 (A) and 376 (2) (n) r/w. 6 r/w. 17 of POCSO Act, 2012.

2. The case of the prosecution is that A.1 had kidnapped the minor daughter of the defacto complainant/R.2 and committed sexual assault on her. The allegation against this petitioner/A.2 is that he being the friend of the first accused, had abetted the first accused in this offence.

3. Heard Mr.T.Surya, learned counsel appearing for the petitioner and Mr.Leonard Arul Joseph Selvam, learned Government Advocate (Criminal Side) for the first respondent.

4. Even though, the name of the second respondent/defacto complainant is printed in the cause list, there is no representation.



5. The learned counsel appearing for the petitioner submitted that the petitioner has been unnecessarily roped in the final report. Even in 164 Statement, the victim girl had not implicated the name of this petitioner. There are no materials available against the petitioner to proceed with the offence. Further statements are recorded by the Investigation Officer, which are only of hearsay evidence and not admissible.

6. The learned Government Advocate (Criminal Side) appearing for the first respondent submitted that the victim girl now married A.1.

7. Normally, the Court will not venture into the protective value of the statement of the witnesses, but at the same time, when the entire materials collected by the prosecution taken on its face value do not constitute an offence, continuing the prosecution is nothing but an abuse of process of law. Statement of the victim before the Magistrate was scrupulously perused, where, she never implicated this petitioner, at any point of time that this petitioner had helped A.1. Therefore merely because this petitioner is the friend of A.1 charge against him will not be attracted. Therefore, considering the nature of the allegation



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and also having perused 164 Statement of the victim, continuing the prosecution against this petitioner is nothing but a futile exercise.

8. In the result, this Criminal Original Petition is allowed and Spl.S.C.No.53 of 2021, pending on the file of the Mahila Court, Thiruvannamalai, against this petitioner/A.2 alone is quashed. Consequently, the connected Criminal Miscellaneous Petitions are closed.

6/7/2022

Index : Yes / No
Internet: Yes
Speaking/non speaking order

mvs.

To

1. The Inspector of Police, Polur Police Station, Polur, Thiruvannamalai District.
2. The Mahila Court, Thiruvannamalai
3. The Public Prosecutor, High Court, Madras.

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