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IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 03.02.2022

CORAM :

THE HONOURABLE MR.JUSTICE M.NIRMAL KUMAR

CRL.O.P.NO.21863 OF 2021

AND

CRL.M.P.NOS.11878 & 11880 OF 2021

Thirumalai (A5)

...Petitioner

Vs.

1.The Inspector of Police,
S2, Airport Police Station,
Meenampakkam, Chennai.

2.Kaliyamoorthy

...Respondents / Complainant

Prayer : Criminal Original Petition filed under Section 482 of the Code of Criminal Procedure, to call for the records in S.C.No.72 of 2021, pending on the file of the learned Principal Sessions Judge Chengalpattu and to quash the charges levelled against the petitioner/accused.

For Petitioner : Mr.M.Velmurugan

For Respondent : Mr.E.Raj Thilak
Additional Public Prosecutor
Mr.R.Nageswara Rao for R2

O R D E R

The petitioner/A5 in S.C.No.72 of 2021, pending trial on the file of the learned Principal Sessions Judge, Chengalpattu, filed this quash petition.

2.The petitioner along with 5 others facing trial under Sections 364A, 368, 506(2), 34 and 109 of IPC.

3.The case of the prosecution is that the second respondent's son Mr.Thanigavel was returning back from Singapore to Chennai at about 21.15 hours and landed on 15.11.2019 and reached Chennai International Airport. When he was in Singapore Airport 3 unknown persons handed over to him a gold chain and instructed him to hand over the same to their representative who would contact him in Chennai. For helping them, the said Thanigavel received the gold chain and kept it in



his purse. He sent his purse along with other articles for scanning at Singapore Airport. Thereafter, the gold chain was found missing. He immediately informed the security and the Police in Singapore Airport and informed the persons who handed over the gold chain in Singapore. They informed him not to lodge any complaint and they will inform their Chennai contact. Thereafter, Thanigavel landed in Chennai, where he was abducted, forcibly taken away by Sahul Ameen/A1 and Abdul Ameen/A2. They enquired about the gold chain when Thanigavel informed the happenings at Singapore, they were not convinced and they threatened the victim and demanded Rs.7,00,000/- for the gold. Thereafter, A3 and A4 got into the car and they contacted the defacto complainant father of Thanigavel to handover the cash. Later they enquired A6 to find out any contacts in Cuddalore to receive the money, A6 informed A5/the petitioner herein. In the meanwhile, defacto complainant and his son-in-law, left to Chennai in search of the victim and lodged a complaint with the Airport Police.

4.The petitioner A5 went to the house defacto complainant demanded money from the defacto complainant's wife, where he was caught and handed over to Nellikuppam Police. Nellikuppam Police using A5's phone contacted A6, informed A1 and A2 to bring the victim to Cuddalore, where all were arrested, coming to know about the registration of case by Airport Police, the petitioner and other accused handed over to them. After investigation Airport Police filed charge sheet listing LW1 to LW21 materials and articles.

5.The case was taken on file in PRC.No.21 of 2021 and the case is pending committal before the learned Judicial Magistrate Alandur.

6.The contention of the petitioner is that the petitioner falsely implicated in this case. Even at the initial stage the petitioner wrongly arrayed as accused realised by the defacto complainant hence during bail proceedings no objection given, the defacto complainant on enquiry found that the petitioner is falsely implicated and he is the victim of circumstances. Not knowing the background and facts, on receipt of information from A6, the petitioner had gone to the house of the defacto complainant to receive the money and nothing more. He further submitted that from the statement of witnesses recorded, it is seen that LW4 is the brother-in-law of the victim who states about that his mother-in-law informing about the petitioner, coming to the house of the defacto complainant to receive the money. LW5 is the mother-in-law of LW4 who confirms about the petitioner coming and asking for money, for this reason, the petitioner handed over to Nellikuppam Police. LW6 is the Inspector of Nellikuppam Police Station states about the



petitioner giving explanation that he had gone on the instructions of A6 and he was not aware of earlier happenings in Chennai to the victim at the hands of the A1 to A4.

7. Further, the petitioner co-operated with the investigation and he had been instrumental to apprehend the other accused in this case, bringing the victim as well as the abductors to Cuddalore where LW6 rescued the victim apprehended the abductors. The petitioner can be a good witness to link the role played by the other accused as well as contact made using his mobile phone, the other witnesses viz., car drivers of the car who took the victim from lodge to Cuddalore and the Manager of Al Masha Guest House and CCTV recordings. It is seen that the petitioner was neither in the Airport nor in the lodge when the victim was abducted kept in confinement. Admittedly, he was in Cuddalore, without any knowledge had gone to receive the money on instructions of A6, petitioner had no contact with A1 to A4. The defacto complainant realising the same, agreed to compromise and filed a compromise affidavit.

8. The learned Additional Public Prosecutor submitted in this case LW2 is the victim who was abducted by A1 and A2 initially from the Airport and thereafter by A3 and A4 confined the victim in a lodge, demanded ransom of Rs.7,00,000/- or gold from the LW1 defacto complainant. The victim had come from Singapore to Chennai, when he reached Chennai, he informed A1 to A4 about the missing of gold chain which made A1 to A4 to abduct the victim. Thereafter, A5 was caught by the brother-in-law of the victim in Cuddalore who revealed the role played by other accused A6, thereafter all the other accused and victim was apprehended and rescued at Cuddalore.

9. On completion of investigation, charge sheet filed listing LW1 to LW21 and the evidence and mobile phone of the victim, accused and the witnesses collected and forwarded. The victim's arrival is confirmed by examining the Airport Manager, his abduction and confinement confirmed by the lodge Manager, Taxi drivers and other witnesses. The offence is of serious in nature. As regards the petitioner, admittedly, he was not in Chennai, he went to the house of defacto complainant on instructions of A6, no witnesses have stated that the petitioner was aware of kidnapping, abduction and demand of ransom. He submitted that the defacto complainant had appeared and confirmed the compromise and also produced a compromise affidavit.

10. This Court on consideration of materials and submissions and also the appearance of the defacto complainant and submitting the compromise affidavit even at the stage of bail, the defacto complainant had shown no objection to the



petitioner, later on enquiry found that A5 had been in Cuddalore and on instructions of other accused to receive the money not knowing for what purpose. Further, the persons working in Singapore, Malaysia and Middle East do such transactions which is common. The petitioner had been instrumental, in bringing the victim to Cuddalore where LW6-Inspector of Nellikuppam Police rescued the victim arrested the accused. The petitioner will be a important witness to prove the link of the other accused. Further, the petitioner has agreed to be a witness in this case and it is for the respondent Police to treat him as a witness which would strengthen the link of the accused and the case of the prosecution.

11.In view of the above, this Court is inclined to quash the proceedings in S.C.No.72 of 2021, pending on the file of the learned Principal Sessions Judge Chengalpattu as against the petitioner / Accused No.5 alone. The petitioner is to be transposed from accused to be a witness, the respondent Police to take steps to examine petitioner as witness after recording his statement and copy of the statement furnished to the accused well before examining petitioner as witnesses.

12.In view of the above, S.C.No.72 of 2021, on the file of the learned Principal Sessions Judge, Chengalpattu, is quashed as against petitioner A5 alone and the Criminal Original Petition is allowed. Consequently, the connected Criminal Miscellaneous Petitions are closed.

Sd/-

Assistant Registrar

// True Copy //

Sub Assistant Registrar

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To

1.The Principal Sessions Judge,
Chengalpattu.

2.The Inspector of Police,
S2, Airport Police Station,
Meenampakkam, Chennai.

3.The Public Prosecutor,
High Court, Madras.

+1cc to Mr.M.Velmurugan, Advocate Sr.No.7496

Cr1.O.P.No.21863 of 2021

GSM(CO)

RVM(24/02/2022)