



WEB COPY

BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

DATED : 01.02.2022

CORAM :

THE HONOURABLE MR.JUSTICE G.R.SWAMINATHAN

Crl.O.P(MD)No.350 of 2022

and

Crl.M.P. (MD)No.269 of 2022

P.Vijay

... Petitioner

Vs.

1.The State of Tamilnadu rep. by
The Inspector of Police,
Karimeadu Police Station,
Madurai District.
(Crime No.376 of 2021)

2.Transferred to
The Inspector of Police,
All Women Police Station (South),
Madurai City.
(Crime No.376 of 2021)

3.S.Raja

4.xxxxxxx

5.Jeyachandran

... Respondents

Prayer: This Criminal Original Petition is filed under Section 482 of Cr.P.C., to call for the entire records pertaining to the case in Crime No.376 of 2021 which was originally registered by the 1st respondent and later transferred to the file of the 2nd respondent and quash the same as against the petitioner.

For Petitioner : Mr.A.Ramesh, Senior Counsel,
For Mr.P.Gunasekaran

For Respondents : Mr.M.Sakthi Kumar,
Govt. Advocate (Crl. Side) for R1 & R2.
Mr.R.Anand for R3 & R4.
Mr.Aynnar Prem Kumar for R5.



O R D E R

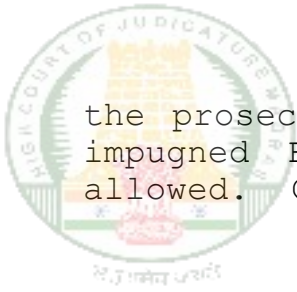
Heard the learned Senior Counsel for the petitioner, the learned Government Advocate (Crl. Side) for the respondents 1 and 2, learned counsel for the respondents 3 and 4 and the learned counsel for the fifth respondent.

2.The petitioner is figuring as an accused in Crime No.376 of 2021 registered on the file of Karimedu police station for the offences under Sections 8, 11(1), 12, 17, 21(2) of Protection of Children from Sexual Offences Act, 2012.

3.The fifth respondent had filed Cr.M.P.No.278 of 2021 before the Special Court for POCSO Act Cases and obtained a direction for registering the impugned FIR. According to the defacto complainant, the petitioner, who is a school teacher had exchanged obscene photographs with a minor girl student. To quash the same, this criminal original petition has been filed.

4.The learned Government Advocate (Crl. Side) as well as the learned counsel for the defacto complainant submitted that the impugned FIR does not deserve to be quashed. Since specific overt acts have been attributed to the petitioner, the petitioner has to necessarily establish his innocence only during regular trial and that this criminal original petition is not maintainable.

5.As rightly pointed out by the learned Senior Counsel for the petitioner, the chances of conviction in this case are not just bleak but zero. In this case, the victim girl never lodged any complaint. She had given atleast one statement under Section 164 of CrPC to completely absolving the petitioner of any wrong doing. She had also given in writing to the education department that it was her father, who had given a complaint under a mistaken impression. Today, the father of the victim girl is represented by a counsel. The father also states that he was under the impression that the petitioner had exchanged obscene photographs with his daughter and that is why, he gave the complaint. Now the father also does not want to pursue the complaint. The fifth respondent is a complete stranger and third party. Of-course in a case of this nature, any public interested citizen can set the criminal law in motion. But criminal law cannot be continued for the sake of formality. It has to have a meaningful ending. The fifth respondent cannot on his own play any role in the trial. The prosecution has to rest entirely on the testimony of the victim and her father. Both of them have done a complete 'U' turn. The only allegation against the petitioner is that he had exchanged obscene photographs. But the mobile phone of the victim girl has not been recovered. The occurrence had taken place way back on 23.07.2020. We are now in February 2022. It is too late in the day to go in search of forensic evidence. It is also stated by the learned Senior Counsel for the petitioner that the petitioner is suffering from blood cancer. Continuance of



the prosecution is not going to yield any result. Therefore, the impugned FIR is quashed and the criminal original petition is allowed. Consequently, connected miscellaneous petition is closed.

Sd/-

Assistant Registrar (AS)

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/ /2022

Sub Assistant Registrar(CS)

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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,
Karimeadu Police Station,
Madurai District.
- 2.The Inspector of Police,
All Women Police Station (South),
Madurai City.
- 3.The Additional Public Prosecutor,
Madurai Bench of Madras High Court,
Madurai.

+1 CC to M/s.P.SEPANA @ SREE, Advocate (SR-3753[F] dated 02/02/2022)

Cr1.O.P(MD)No.350 of 2022
01.02.2022

RD(15.02.2022) 3P 5C