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Crl.O.P.(MD)No.22676 of 2022

BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

Dated: 13/10/2023

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The Hon'ble Mr.Justice **G.ILANGOVAN**

Crl.OP(MD)No.22676 of 2022

and

Crl.MP(MD)Nos.16025 and 16026 of 2022

Subash : Petitioner/A2

Vs.

1.State rep. by,
The Inspector of Police,
West Police Station,
Kovilpatti,
Thoothukudi District.
(Crime No.798 of 2015) : R1/Complainant

2.Selvaraj : R2/De-facto Complainant

PRAYER:-Criminal Original Petition has been filed under section 482 of the Criminal Procedure Code, to call for the records relating to CC No.474 of 2015 on the file of the Judicial Magistrate No.II, Kovilpatti, Thoothukudi District and quash the same as illegal in so far as the petitioner is concerned.

For Petitioner : Mr.K.Sivabalan
for Mr.G.Aravinthan

For 1st Respondent : Mr.M.Sakthi Kumar
Government Advocate
(Criminal side)

For 2nd Respondent : No appearance



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O R D E R

WEB COPY This criminal original petition has been filed seeking quashment of the case in CC No.474 of 2015 on the file of the Judicial Magistrate No.II, Kovilpatti.

2.The case of the prosecution in brief:-

On 06/10/2015 at about 05.00 am, the accused persons stolen away the vehicle bearing registration No.TN-67-Y-9492 from the shop called 'Selvan Welding workshop'. The property belongs to the de-facto complainant namely Selvaraja. On the basis of the complaint given by the de-facto complainant, a case in Crime No.798 of 2018 was registered for the offence under section 379 IPC. After completing the investigation, charge sheet was filed and it was taken cognizance in CC No.474 of 2015 by the Judicial Magistrate No.II, Kovilpatti, Thoothukudi District.

3.This petitioner is arrayed as A2. He was shown as 'Adult' at that time of filing the final report. Stating that on the date of the alleged occurrence, the petitioner was a juvenile, this petition has been filed seeking quashment of the same.



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4.To show the age of the petitioner, he has produced the transfer certificate. Wherein we find that the date of birth is mentioned as 10/08/1998. The date of occurrence is 06/10/2015. So it is evident that the petitioner has not completed 18 years of age on the date of the occurrence. He ought not to have been proceeded under General Law. Investigation should have been undertaken as per the provisions of the Juvenile Justice (Care and Protection of Children) Act, which came into force on 15/01/2016. But on the date of came into force of the Act, investigation was pending. By virtue of section 111 of the Juvenile Justice (Care and Protection of Children) Act, 2000 was repealed. So the provisions of the Juvenile Justice (Care and Protection of Children) Act, 2000 ought to have been followed by the Investigating Officer.

5.But without following the proper procedure, final report was filed before the regular court. It is not competent to take up the matter.

6.On that sole ground, this criminal original petition is liable to be allowed.



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7.In the result, this criminal original petition stands **allowed**. The case in CC No.474 of 2015 on the file of the Judicial Magistrate No.II, Kovilpatti, Thoothukudi District is hereby quashed against the petitioner. Consequently, connected Miscellaneous Petitions are closed.

13/10/2023

Index:Yes/No
Internet:Yes/No

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To,

- 1.The Judicial Magistrate No.II,
Kovilpatti,
Thoothukudi District.
- 2.The Inspector of Police,
West Police Station,
Kovilpatti,
Thoothukudi District.
- 3.The Additional Public Prosecutor,
Madurai Bench of Madras High Court,
Madurai.



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G.ILANGOVAN, J

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