



Crl.O.P(MD).Nos.16357 and 17048 of 2021

BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

DATED : 08.04.2024

CORAM :

THE HON'BLE MR JUSTICE A.A.NAKKIRAN

Crl.O.P(MD).Nos.16357 and 17048 of 2021

Crl.M.P(MD).Nos.8790, 8791, 9231 and 9233 of 2021

Dr.Shanthisekaran

... Petitioner in
Crl.O.P(MD).No.16357 of 2021

1.Prabakaran

2.Padmavathi

... Petitioners in
Crl.O.P(MD).No.17048 of 2021

Vs.

1.State rep. by the
The Inspector of Police,
D3 Koodal Pudur Police Station,
Madurai City.
(Crime No. 852 of 2016)

2.Stalin

... Respondents in
both petitions

PRAYER:- Petitions filed under Section 482 Cr.P.C., to call for the records pertaining to the charge sheet in SC.No.502 of 2017 on the file of the Sessions Judge, Mahaleer Neethimandram, Madurai and quash the same in respect of the petitioners as illegal.



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For Petitioners : Mr. C. Mayilvahana Rajendran

For 1st respondent : Mr. K.Sanjai Gandhi

Government Advocate (Crl. Side)

in both petitions

COMMON ORDER

These Criminal Original Petitions have been filed to quash the proceeding in S.C.No.502 of 2017 on the file of the Sessions Judge, Mahaleer Neethimandram, Madurai in respect of the petitioners.

2. The case of the prosecution is that the 2nd respondent / defacto complainant, who is the Data Analyst of District Child Protection Unit, Madurai lodged a complaint before the 2nd respondent Police on 02.06.2016 stating that he received a complaint through phone from LW.3 and LW.4 viz., Ravisankar and Seenivasan respectively and they were enquired by him. A1 is running a home under the name and style of Golden Arakkattalai, A2 is the brother of A1; A3 is the wife of A2. A5 and A6 are running S.S Hospital at Kulamangalam main Road in Madurai. A1 to A3 have illegally taken a new born child of 10 days old from S.S.Hospital with the help of A5 and A6 and illegally kept in their



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custody for selling. A4 is the office staff of the said Hospital, who knowingly maintained the new born baby in her custody. Based on the complaint given by the defacto complainant, a case has been registered in Crime No. 852 of 2016 on the file of the respondent Police. Thereafter, the case was charge sheeted in S.C.No.502 of 2017 on the file of the Principal District and Sessions Judge, Madurai for the offences under Sections 109, 370(4), 511 IPC r/w. 34 IPC and Section 81 of Juvenile Justice Act, 2015 and subsequently, transferred to the Sessions Judge, Mahaleer Neethimandram, Madurai.

3. The learned counsel appearing for the petitioners submitted that the 1st respondent Police enquired 23 witnesses and recorded statements under Section 161 Cr.P.C., None of the witnesses speak about the involvement of the petitioners / accused. He would further submit that LW.5, who is the mother of the Baby stated that the baby was born owing to the illegal intimacy with one Kannan and she was married to maternal uncle viz., Karthick Raja concealed the intimacy. Hence, she refused to take back the child and requested the A5 to hand over the Baby to the needy persons. LW.6, who is the mother of LW.5 also made same version in her 161 Statement and she also requested to hand over



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the baby to the children home. He would further submit that there is no specific role played by the petitioners herein / A2, A3 and A5 and prays for allowing these petitions.

4. The learned Government Advocate (Crl. Side) appearing for the first respondent Police submitted that all the accused persons are colluded together and tried to sell the child to third party. He would further submit that now the case is posted for examination of LW.1 to LW.3 on 29.04.2024 and prays for dismissal of this petition.

5. Heard the learned counsel appearing for the petitioners and the first respondent Police and perused the materials available on record.

6. Considering the fact that the allegations made against the petitioners are serious in nature and that the truth will come out only after examination of all the witnesses, this Court is not inclined to allow these petitions at this stage.

7. Accordingly, these Criminal Original Petitions are dismissed. Consequently, the connected Miscellaneous Petitions are closed.



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8. In the circumstances, the learned counsel appearing for the petitioners seeks to dispense with the personal appearance of the petitioners before the trial Court as well as early disposal of the case.

9. Taking into consideration of the request as made by the learned counsel for the petitioners, the appearance of the petitioners before the trial court is dispensed with except for their appearance for the purpose of receiving the copy of the proceedings u/s 207 Cr.P.C., framing of charges, questioning under Section 313 Cr.P.C. and on the day on which judgment is to be pronounced. However, if for any particular reason, the presence of the petitioners are necessary, the trial court, at its wisdom, shall direct those appearance on those days. Further, the the learned Sessions Judge, Mahaleer Neethimandram, Madurai is directed to dispose of the said S.C.No.502 of 2017 pending on its file as expeditiously as possible.

08.04.2024

Internet : Yes / No

Index : Yes / No

Speaking / Non Speaking order

trp



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1. The Sessions Judge, Mahaleer Neethimandram, Madurai a

1.The Inspector of Police,
D3 Koodal Pudur Police Station,
Madurai City.

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



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A.A.NAKKIRAN, J.

Trp

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