



Crl.O.P.(MD)No.14705 of 2023

BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

DATED: 05.12.2024

CORAM:

THE HON'BLE MR.JUSTICE N.ANAND VENKATESH

Crl.O.P.(MD)No.14705 of 2023
and Crl.M.P.(MD)No.11602 of 2023

Durairaj

... Petitioner/A2

Vs.

1.The State Rep. by
The Inspector of Police,
Achanpudur Police Station,
Achanpudur,
Tirunelveli District.
Crime No.10 of 2016

...1st Respondent/Complainant

2.Sankarapandian

...2nd Respondent / Defacto Complainant

3.Sankara Subramanian

... 3rd Respondent

[R3 is suo-motu impleaded vide order dated 20.08.2024
in Crl.M.P.(MD)No.8479 of 2024]

PRAYER : Criminal Original Petition filed under Section 482 of Criminal Procedure Code, to call for the records in connection with S.C.No.305 of 2024 on the file of the Principal District Court, Tenkasi District in Crime No.10 of 2016 on the file of the Inspector of Police, Achanpudur Police Station, Achanpudur, Tirunelveli, Tirunelveli District and consequently, quash the same as illegal and devoid of merits in respect of the petitioner forthwith.



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For Petitioner	: Mr.J.Sankara Pandian
For R-1	: Mr.S.Ravi Additional Public Prosecutor
For R-2	: Mr.S.Ramanathan

ORDER

This petition has been filed to quash the proceedings pending in S.C.No.305 of 2024 on the file of the Principal District Court, Tenkasi District.

2.Heard the learned counsel on either side.

3.The case of the prosecution is that the defacto complainant's wife was working as a teacher in a Primary School. They had a son aged about 7 years. On 13.01.2016 at about 09.00 a.m., the defacto complainant left a house for work and returned back in the afternoon at about 01.00 p.m., for lunch. At that point of time, it is alleged that the defacto complainant's wife and son went missing and on further enquiry, it came to light that the accused persons had kidnapped the wife and son of the defacto complainant in a two-wheeler and they have been taken to Pondicherry. Based on this complaint, an FIR came to be registered in



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Crime No.10 of 2016 as a women and child missing case. Subsequently, it was altered for the offence under Sections 366 and 366A of IPC. On completion of investigation, the police report came to be filed before the Court below against two accused persons and the same was taken cognizance by the Court below for the offence under Sections 366 and 366A of IPC.

4.This Court has carefully considered the submissions made on either side and the materials available on record.

5.The petitioner before this Court is arrayed as A2 and he is said to be the friend of A1. The manner in which the prosecution has projected this case is quite unbelievable. The allegation is that the accused persons kidnapped the lady aged about 34 years and the boy aged about 7 years in a moped and they were taken to Pondicherry. Thereafter, the son of the defacto complainant was left in the school by A1 and the defacto complainant went to the school and brought his son back.

6.There is something more than what meets the eye in this case. It is quite apparent that there was some affair between the defacto



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complainant's wife and A1 and they decided to elope. In order to avoid any embarrassment, the case has been cooked up with an imaginary story which is unbelievable.

7.In any event, the petitioner has been arrayed as A2 only on the ground that he is the friend of A1. The so-called independent witness in this case does not even talk about seeing this incident and he merely states that he came to know about this incident.

8.It is brought to the notice of this Court that the defacto complainant is now living happily with his wife and A1 has married some other woman and he is leading his life. Unfortunately, the friend of A1 was caught in this case. The materials available before this Court along with the police report, do not make out an offence under Sections 366 and 366A of IPC. This is in view of the fact that the so-called kidnapping has not been established and the person, who is said to have been kidnapped in this case is a boy.

9.The continuation of the proceedings as against the petitioner (A2) will amount to an abuse of process of law, which requires the



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interference of this Court.

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10.In the result, the proceedings in S.C.No.305 of 2024 on the file of the Principal District Court, Tenkasi District, is hereby quashed insofar as the petitioner is concerned and this Criminal Original Petition stands allowed. Consequently, the connected miscellaneous petition is closed.

05.12.2024

Index: Yes/No

Internet: Yes/No

sjj

To

1.The Principal District Court, Tenkasi District.

2.The Inspector of Police,
Achanpudur Police Station,
Achanpudur,
Tirunelveli District.

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



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N.ANAND VENKATESH.J.,

sjj

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