

Crl.O.P.(MD)No.4092 of 2025

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BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

DATED: 26.03.2025

CORAM

THE HON'BLE MR.JUSTICE P.DHANABAL

Crl.O.P.(MD)No.4092 of 2025

and

Crl.M.P(MD) No.2915 of 2025

1. Vengateshwari
2. Bose
3. Selvam

.... Petitioners

Vs.

1. The Inspector of Police
AWPS- Melur Police Station
Madurai District

2. Amutha
EOSW,Panchayat Union Office
Melur, Madurai District

.. Respondents

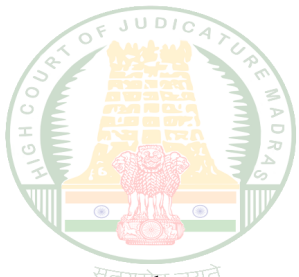
PRAYER: Criminal Original Petition filed under Section 528 of BNSS, to call for the records in (*)C.C.No.160 of 2021 pending on the file of the Judicial Magistrate Court, Melur, Madurai District and quash the same.

For Petitioners : Mr.Devaraj Mahesh

For Respondents : Mr.M.Vaikkam Karunanithi
Government Advocate(Crl.Side)

ORDER

This Criminal Original Petition has been filed to quash the proceedings in C.C.No. 160 of 2021 pending on the file of the learned Judicial Magistrate, Melur,



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Madurai District.

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2. The case of the prosecution that the petitioners performed child marriage to the victim who is aged about 16 years. On 16.06.2016 at about 7.30 am., when the defacto complainant was on duty, on information along with the police officials went to the Ayyanar temple and enquired the temple poojari at that time temple poojari informed that marriage was performed in the temple and they have not registered the marriage since it is a village. He did not know about the address of the persons who conducted marriage, thereafter they came know that the said marriage was child marriage, thereby the defacto complainant lodged complaint and based on the complaint First Information Report has been registered in Crime No.38 of 2016 for the offences under Sections 9 and 10 of Prohibition of Child Marriage Act. Thereafter the first respondent conducted investigation and filed final report. Based on the final report the trial Court has also taken cognizance and now the petitioners being accused are challenging the above said proceedings.

3. The learned counsel appearing for the petitioners would submit that the second respondent lodged a complaint before the first respondent as against the petitioners alleging that child marriage was performed, the third respondent got married with the child and the petitioners 1 and 2 performed child marriage . In fact there are only vague allegations and no any specific allegations as against the

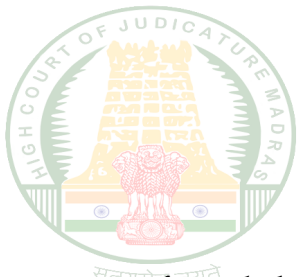


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petitioners and there are no materials to prove the said marriage between the third petitioner and the child. Even according to the prosecution on 16.06.2016 at about 7.30 am., the second respondent along with police officials went to the Ayyanar temple where the marriage had already taken place and they have no records for the marriage. Thereafter the second respondent came to know that victim was a child and she was studying X standard and they performed marriage to the third petitioner, therefore a case has been registered under Sections 9 and 10 of Prohibition of Child Marriage Act. Only on the basis of suspicion and assumption the First Information Report has been registered and without conducting proper investigation the first respondent filed final report. Even as per the final report there are no materials available as against the petitioners to constitute the offence and there is no any eye witnesses to prove the solemnize of marriage between the third petitioner and the child, thereby the pending proceedings is liable to be quashed.

4. The learned Government Advocate(Crl.Side) appearing for the respondents 1 and 2 would submit that based on the information given by the second respondent along with police party went to the temple where the priest performed child marriage and no any records for the marriage. Therefore after enquiry they came to know that the said marriage was solemnized with the third petitioner , therefore they registered a case in Crime No 38 of 2016 for the offences under Sections 9 and



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10 of Prohibition of Child Marriage Act. Thereafter they filed final report and the trial Court after satisfying that there are prima facie materials available had taken cognizance., therefore the petitioners have to face the trial and hence the petition is liable to be dismissed.

5. Heard both sides and perused the materials available on record.

6. The second respondent lodged a complaint against the petitioner s and thereby the first respondent registered a case in Crime No 38 of 2016 for the offences under Sections 9 and 10 of Prohibition of Child Marriage Act. According to the petitioners there are no prima facie materials as against these petitioners and only based on assumption they registered the case. Thereafter without conducting proper investigation filed final report and the trial Court also without taking any prima facie materials taken cognizance.

7. This Court perused the records and on perusal of the records there are no any witnesses to say about the alleged marriage between the third petitioner and the victim child. Even as per the prosecution witnesses they based on the information went to the temple where the poojari performed the child marriage but no any evidence for the alleged marriage between the third petitioner and the child. With out any basis the First Information Report has been registered and even in the charge sheet there are only bald allegations. There are no materials that the



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petitioners 1 and 2 performed child marriage with the first petitioner, therefore without any materials the first respondent filed final report and the trial Court also without any materials had taken cognizance. In this case there are five witnesses on behalf of the prosecution side and those witnesses are only official witnesses and none of the witnesses have spoken about the marriage performed between the third petitioner and the victim child. As per the statement of witnesses they enquired about the marriage and none of the villagers disclosed about the marriage and absolutely there are no materials to substantiate that the marriage has been solemnized and without materials the case cannot be proceed further. Therefore without any materials the petitioners need not face the ordeal of trial and thereby the pending proceeding are liable to be quashed.

8. Accordingly the Criminal Original Petition stands allowed and the proceedings in (*)C.C.No.160 of 2021 pending on the file of the Judicial Magistrate Court, Melur, Madurai District is hereby quashed. Consequently connected miscellaneous petition stands closed.

Sd/-

26.03.2025

(*)Corrected as per order of this Court dated 15.04.2025 made in CRL OP(MD)No.4092 of 2025.

Sd/-



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// True Copy //

Assistant Registrar (CS.I)

/ /2025

Sub Assistant Registrar
(CS-I/II/III/IV)

PNM

To

1. The Judicial Magistrate,
Melur, Madurai District
2. The Inspector of Police
AWPS- Melur Police Station
Madurai District
3. The Additional Public Prosecutor,
Madurai Bench of Madras High Court,
Madurai.

+1 CC to M/s.K.RAJA PANDI, Advocate (SR-20499[F] dated 27/03/2025)

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SL(29.04.2025)/ 6P/ 5C

Madurai Bench of Madras High Court is issuing certified copies in this format from 17.07.2023.