



Crl.O.P.No.26264 of 2022

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 28.01.2026

CORAM:

THE HON'BLE MR. JUSTICE A.D.JAGADISH CHANDIRA

Crl.O.P.No.26264 of 2022

1. Sugesh @ Subash

2. Vishnu

...Petitioners

Vs.

1. The Inspector of Police,
All Women Police Station,
Hosur, Krishnagiri.

2. J.Muthu

...Respondents

Criminal Original Petition filed under Section 528 of Bharatiya Nagarik Suraksha Sanhita/Section 482 Cr.P.C., to call for the records pertaining to the charge sheet in Spl.SC.No.60 of 2021, on the file of the learned Sessions Judge, Fast Track Mahila Court, Krishnagiri and quash the same.

For Petitioners : Mr.M.P.Saravanan

For Respondents : Mr.S.Santhosh, GA(Crl. Side), for R1
No Appearance, for R2



ORDER

This criminal original petition has been filed seeking to quash the charge sheet in Spl.SC.No.60 of 2021, pending on the file of the learned Sessions Judge, Fast Track Mahila Court, Krishnagiri.

2. The brief facts of the case are detailed below:

2.1 Based on the complaint given by the 2nd respondent/de facto complainant, who is the father of the victim girl, an FIR in Crime No.11 of 2021 came to be registered on the file of the 1st respondent for the offences under Sections 363, 366 and 366A of IPC as against the petitioners/A2 and A3, and one Naveenkumar/A1. On completion of investigation, the final report came to be filed before the learned Sessions Judge, Fast Track Mahila Court, Krishnagiri in Spl.SC.No.60 of 2021 for the offences under Sections 363, 366 and 366A of IPC and Sections 5(I), 16, 17 and 6(1) of the POCSO Act and Sections 9 and 10 of the Prohibition of Child Marriage Act as against the petitioners herein and also against the said Naveenkumar, and one Ajthkumar.

2.2 The allegations made in the charge sheet are that, the 1st accused, developed a love affair with the victim girl, who was a minor at the relevant point of time and under the pretext of marrying her, on 19.05.2021, around 06.30 pm, the 1st accused took the victim girl, married her and



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committed penetrative sexual assault on her, and that the petitioners herein abetted the 1st accused for committing the abovesaid offences. Challenging the same, the petitioners have come up with this petition.

3. Learned counsel for the petitioners submitted that the 1st petitioner is a friend of the 1st accused and the 2nd petitioner is a friend of the 1st petitioner and even as per the prosecution, the only allegation made against the petitioners herein is that they instigated and induced the victim girl to accompany the 1st accused, with the full knowledge that she would be subjected to illicit sexual intercourse. Learned counsel further submitted that even taking into consideration the statement made by the 2nd respondent/de facto complainant as also that of the victim girl, the ingredients of the alleged offences cannot be made out against the petitioners. He also submitted that even as per the statement of the victim girl recorded under Section 164 of Cr.P.C., it is evident that the 1st accused took the victim girl to Tiruppur, unbeknownst to the petitioners herein. Hence, it is his contention that the charges framed against the petitioners herein cannot be sustained and prayed for quashing the impugned charge sheet as against the petitioners.



4. Per contra, the learned Government Advocate (Crl. Side) appearing for the 1st respondent submitted that it is the petitioners herein, who helped the 1st accused to kidnap the victim girl and induced the victim girl to accompany the 1st accused and hence, the impugned proceedings does not deserve to be quashed.

5. Heard the learned counsel on either side and perused the material documents available on record.

6. Given the background facts obtaining in this case, it is apposite to refer to the order dated 28.01.2022 passed in Crl.R.C.No.848 of 2021, wherein, this Court has allowed the said case on the ground that there is no material to suggest that the petitioner therein induced the victim girl to go from any place or do any act with the intent that she may be, or knowing that it is likely that she will be forced or subjected to illicit intercourse with another person. At paragraph 9 of the said order, this Court has held that in order to frame charges for the offence under Section 366-A IPC, the prosecution should establish the following grounds:

- “1. the accused must have induced a girl;*
- 2. the said girl must be below 18 years of age;*
- 3. the said girl was induced to go from a place, or to do any act, with intent or knowledge that such girl would be forced, or seduced to illicit intercourse with a person.”*



7. Further, this Court deems it fit to allude to Sections 16 and 17 of

POCSO Act, which read as follows:

“Section 16 - Abetment of an offence:

A person abets an offence, who--

First.--Instigates any person to do that offence; or
Secondly.--Engages with one or more other person or persons in any conspiracy for the doing of that offence, if an act or illegal omission takes place in pursuance of that conspiracy, and in order to the doing of that offence; or

Thirdly.--Intentionally aids, by any act or illegal omission, the doing of that offence.

Explanation I.--A person who, by willful misrepresentation, or by willful concealment of a material fact, which he is bound to disclose, voluntarily causes or procures, or attempts to cause or procure a thing to be done, is said to instigate the doing of that offence.

Explanation II.--Whoever, either prior to or at the time of commission of an act, does anything in order to facilitate the commission of that act, and thereby facilitates the commission thereof, is said to aid the doing of that act.

Explanation III.--Whoever employ, harbours, receives or transports a child, by means of threat or use of force or other forms of coercion, abduction, fraud, deception, abuse of power or of a position, vulnerability or the giving or receiving of payments or benefits to achieve the consent of a person having control over another person, for the purpose of any offence under this Act, is said to aid the doing of that act.

Section 17 - Punishment for abetment

Whoever abets any offence under this Act, if the act abetted is committed in consequence of the abetment,



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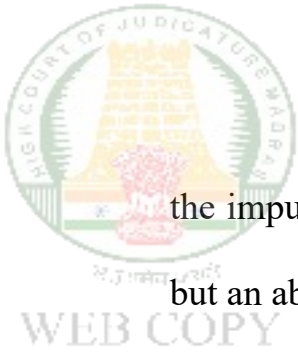
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shall be punished with punishment provided for that offence.

Explanation. -- *An act or offence is said to be committed in consequence of abetment, when it is committed in consequence of the instigation, or in pursuance of the conspiracy or with the aid, which constitutes the abetment."*

8. In the present case, the victim girl, in her statement recorded under Section 164 of the Cr.P.C., explicitly affirmed that the 1st accused took her to Tiruppur, unbeknownst to the petitioners herein and that she was not subjected to compulsion by the petitioners herein. This candid assertion of the victim negates the allegations of kidnapping and compulsion levelled against the petitioners. In other words, in the light of the statement given by the victim girl under Section 164 of Cr.P.C., the charge framed against the petitioners under Section 16 extracted supra, pales into insignificance.

9. Superadded, pertinent it is to point out that in ***Deelip Singh vs. State of Bihar [AIR 2005 SC 203]***, the Hon'ble Apex Court held that lack of genuine intent to compel would invalidate the charges of kidnapping. Thus, following the ratio laid down in *Deelip Singh (supra)* and taking into consideration the materials available on record, particularly the categorical statement of the victim girl herself, this Court is of the view that no material evidence is made out against the petitioners herein and therefore, keeping



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the impugned criminal proceedings pending against them would be nothing but an abuse of process of law.

10. Accordingly, this criminal original petition stands allowed and the impugned charge sheet in Spl.SC.No.60 of 2021, on the file of the learned Sessions Judge, Fast Track Mahila Court, Krishnagiri, is quashed in respect of the petitioners herein, who are A2 & A3.

28.01.2026

skt

Neutral Citation: Yes/No

To

1. The Sessions Judge, Fast Track Mahila Court, Krishnagiri.
2. The Inspector of Police, All Women Police Station, Hosur, Krishnagiri.
3. The Public Prosecutor, High Court of Madras.



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A.D.JAGADISH CHANDIRA, J.

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