



IN THE HIGH COURT OF KARNATAKA AT BENGALURU

DATED THIS THE 4TH DAY OF NOVEMBER, 2024

BEFORE

THE HON'BLE MR JUSTICE K.NATARAJAN

CRIMINAL PETITION NO. 11370 OF 2024

BETWEEN:

1. SMT MANDARA
W/O SRI. GIRISH,
AGED ABOUT 31 YEARS,
R/O TENK BAILU,
TENGINAKOPPA,
THIRTHAHALLI TALAQ,
SHIVAMOGGA - 577425

...PETITIONER

(BY SMT. SHARADA N., ADVOCATE)

AND:

1. STATE BY
THRITHAHALLI POLICE STATION,
REP BY STATE PUBLIC PROSECUTOR
HIGH COURT BUILDING,
BENGALURU - 560001.
2. SRI. PUNITH KUMAR E.,
S/O SRI ERAPPA
AGED ABOUT 30 YEARS
R/A OUT REACH WORK,
DCPO OFFICE,
SHIVAMOGGA - 577201.

...RESPONDENTS

(BY SMT. M M WAHEEDA, HCGP)

THIS CRL.P IS FILED U/S 482 CR.PC (FILED U/S 528 BNNS) PRAYING TO QUASH THE ENTIRE PROCEEDINGS IN SC NO. 60/2023 IN CRIME NO. 62/2019, REGISTERED BY THE R1 POLICE UNDER SECTION 370 READ WITH SECTION 34 OF INDIAN PENAL CODE AND SECTION 81 OF THE JUVENILE JUSTICE (CARE AND PROTECTION OF CHILDREN) ACT 2015





PENDING ON THE FILE OF THE PRINCIPAL DISTRICT AND SESSIONS JUDGE, SHIVAMOGGA.

THIS PETITION IS COMING ON FOR ADMISSION, THIS DAY, ORDER WAS MADE THEREIN AS UNDER:

CORAM: HON'BLE MR JUSTICE K.NATARAJAN

ORAL ORDER

Learned High Court Government Pleader takes notice for the respondents.

2. This petition is filed by the petitioner /accused No.1 under Section 482 of Cr.P.C. for quashing the criminal proceedings against the petitioner in Cr.No.62/2019 registered by the Thirthahalli Police Station, Shivamogga and charge sheet has been filed for the offences punishable under Section 370 r/w 34 of IPC and under Section 81 of Juvenile Justice (Care and Protection of Children) Act, 2015 (hereinafter referred to as 'JJ Act') pending on the file of Principal Civil Judge (Jr.Dn.) and JMFC, Shivamogga.

3. Heard learned counsel for the petitioner and the learned High Court Government Pleader for the respondents.

4. The case of the prosecution is that on the complaint filed by one Punith Kumar E., District Child Protection Officer (DCPO), the police have registered FIR on 13.03.2019 alleging



that the petitioner/accused No.1 is said to have sold her child to accused Nos.2 and 3. After investigation, they came to know that the petitioner is said to have married to one Girish and out of the wedlock, they begot a male child and the petitioner's husband deserted her and the child. Thereafter, she had an intimacy with another person by name Venkatesh and out of the said relationship, she delivered a female child 24.02.2019. Subsequently, it is alleged that as the petitioner was very poor and unable to maintain herself and her child, she said to be sold the child to accused No.3 through accused No.2 for Rs.15,000/- and the child was taken to Maharashtra where accused No.3 was staying. After receiving the information, the police rescued the child from Mumbai from the custody of accused No.3, FIR was registered and charge sheet came to be filed, which is under challenge.

5. Learned counsel for the petitioner contended that the petitioner is a deserted woman and she was already having a male child of 11 years. As she was very poor and doing coolie work she was an unable to maintain the child, she decided to sell her child to accused No.3 for a sum of Rs.15,000/-. Since he had no issues, he intended to adopt the



child but he has not followed the procedure. He had no intention to exploit the child or any other illegal purpose and this Court has already quashed the criminal proceedings against accused Nos.2 and 3. Therefore, on the ground of parity, this petitioner is also entitled for the same relief. Hence, prayed for quashing of the proceedings.

6. Per contra, learned High Court opposes for quashing the proceedings against accused No.1 as the adoption procedure was not followed and it attracts Section 370 of IPC and prays for dismissal of the petition.

7. Having heard the arguments and perusal of the records, would reveal that the petitioner delivered a female child and the child was born out of intimacy with another person and the petitioner is said to be very poor and unable to maintain the child. Later, she came in contact with accused No.2 and through him she sold the child to accused No.3, who is said to be a married man having no issues for about 14 years, who intended to adopt the child. Of course, there is a violation of JJ Rules i.e., the petitioner has handed over the child to accused No.3 without following the adoption procedure



by selling the child for Rs.15,000/-. However, this Court while quashing Crl.P.No.933/2022 filed by accused Nos.2 and 3 has categorically held at para-7 that there is no offence under Section 370 of IPC is made out and there is no intention to abduct the child or human trafficking of the child for the purpose of begging etc., by taking the child outside the State. The *bona fide* intention of accused No.3 is to get the child adopted. There is no criminality to conduct the trial against this petitioner. Therefore, I am of the view that conducting proceedings against petitioner/accused No.1 is liable to be quashed. Hence, the following:

ORDER

i. Petition is **allowed**.

ii. The proceedings against accused No.1 in SC No.60/2023 (Crime No.62/2019) registered by the Thirthahalli Police Station, Shivamogga, pending before the Principal District and Sessions Judge, Shivamogga, is hereby **quashed**.

Sd/-
(K.NATARAJAN)
JUDGE

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