



BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT
(Criminal Jurisdiction)

Thursday, the Twenty Fourth day of November Two Thousand Sixteen

PRESENT

The Hon`ble Mr Justice S.VAIDYANATHAN

CRL OP(MD) No.21049 of 2016

R.NAVEEN @ NAVEEN KUMAR

... PETITIONER / ACCUSED-1

Vs

THE STATE REPRESENTED BY
THE INSPECTOR OF POLICE,
VIRALIMALAI POLICE STATION,
PUDUKKOTTAI.

(CRIME NO.275 OF 2016)

... RESPONDENT / COMPLAINANT

For Petitioner : M/S.V.R.VENKATESAN Advocate

For Respondent : Mrs.S.PRABHA Govt. Advocate (Crl. Side)

PETITION FOR BAIL Under Sec. 439 Cr.P.C.

ORDER : The Court Made the following order :-

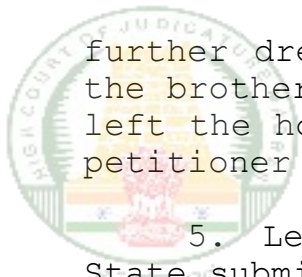
Reserved on	Pronounced on
18.11.2016	24.11.2016

The petitioner/A1, who was arrested and remanded to judicial custody on 11.09.2016 for the alleged offences punishable under Sections 363, 366 and 376(2) IPC and Sections 5(j)(ii) and 6 of the Protection of Children from Sexual Offences Act, 2012 (POCSO) in Crime No.275 of 2016 on the file of the respondent police, seeks bail.

2. Heard the learned counsel for the petitioner and the learned Government Advocate (Crl. Side) appearing for the respondent police.

3. The case of the prosecution is that on the basis of the complaint lodged by the brother of the victim girl, alleging that his sister was kidnapped and abducted by the petitioner, the present FIR has been registered.

4. Learned counsel for the petitioners would submit that there was a love affair between the petitioner and the victim girl and the victim girl eloped with the petitioner on her own accord and subsequently, married him. Learned counsel for the petitioner



further drew the attention of this Court to the affidavit filed by the brother of the victim girl / defacto complainant that his sister left the house at her own choice, from which it is evident that the petitioner has not abducted the victim girl.

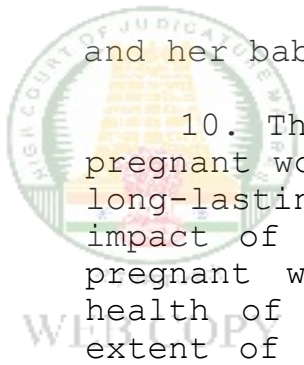
5. Learned Government Advocate (Crl.Side) appearing for the State submitted that the petitioner has indulged in marrying a minor girl aged about 16 years and she is nine month pregnant now.

6. Along with this petition, an affidavit of the victim girl represented by her Grandmother has been filed before this Court, in which it has been stated that the victim girl and her family members have now decided to let the couple lead a happy married life and based on the ill advice given by the relatives and at the spur of moment, the complaint has been lodged by the brother of the victim girl. Court should not be used as a platform to justify their illegal and immoral activities.

7. It is pertinent to note here that in cases where the victim girl is an underage girl, her consent would be immaterial and the man, who enticed her and had physical relationship with her would be booked for the offence of kidnap and the case of elopement with a minor has to be dealt with very seriously. The argument advanced by the parties that the victim girl and the petitioner already got married and therefore, they must be allowed to live together by granting bail to the petitioner, cannot be accepted, as the Hon'ble Division Bench of this Court in the case of **S.Balakrishnan Pandiyan vs The Superintendent of Police [HCP Nos.2767/2013 and 2141/2014] decided on 17.10.2014**, held that marriages performed in secrecy cannot amount to solemnisation within the meaning of Sections 7 and 7-A of the Hindu Marriage Act and cannot be used as a sword by the males for cutting the nuptial knot in matrimonial proceedings, but can be used only by the fair sex to get liberated from sham marriages of this nature. It was further held that even the Certificate of Solemnisation issued by Advocates will not be per se proof of Solemnisation of Marriage in a matrimonial dispute.

8. It is painful to mention here that that now-a-days, several parents and relatives of minor girls are knocking at the doors of this Court by way of Habeas Corpus Petitions for production of minor girls and the Court can come to the rescue of males, only when both attained majority. The person like that of the petitioner, who elopes with the minor girl feels its severity only when he becomes a parent. We live only once and if we live right, once is enough.

9. It is also relevant to point out that according to a study, there are special risks to a baby when the mother is not fully mature, because most teenagers are not physically, emotionally or financially ready to carry and care for a child, their babies tend to have low birth weight and are predisposed to a variety of illnesses. A teenage mother will need the full support of her family to live a healthy lifestyle for her and her baby and if it is not imparted, there is an endangerment to the life of the teenage mother



and her baby.

10. The teenage pregnancy has a serious impact not only on the pregnant woman, but also on parents and the effect is very grave and long-lasting. The medical, psychological, economical and social impact of early child bearing are significant especially when the pregnant woman remains unmarried. Early child bearing harms the health of both the mother as well as the child. It goes to the extent of causing maternal mortality. When the poor woman chooses inexpensive abortion methods, it leads to the high risk ending upto death. It is reported that teenage deliveries are complicated by obstructed labour and other problem. The children born of such pregnancy suffer low weight, low educational facilities, abandonment, caught in a cycle of poverty and thereby loosing development, upliftment and social recognition.

11. Therefore, it is time that child marriage should be prohibited, but there is a million dollar question as to what will happen to the marriage, which is already performed due to lack of awareness and which has lead to unexpected, unplanned and unwanted pregnancies? and the said question cannot be gone into in this petition.

12. The Prohibition of Child Marriage Act, 2006 (PCM Act) seeks to prohibit the solemnization of marriages of girl below the age of 18 years and boys below the age of 21 years. The Act prescribes penalties for the solemnization, promotion, and allowing of child marriages. Though a male above 18 years of age can be punished under the Act for contracting a marriage with a girl under 18 years, the Act, in the considered opinion of this Court, is not strictly implemented in letter and spirit and the Act has to be made more stringent so as to avoid minor girls becoming prey to such vultures.

13. Taking note of all these factors and the serious nature of the offences alleged to have been committed by the petitioner, this Court is not inclined to grant bail to the petitioner. Hence, this petition is dismissed.

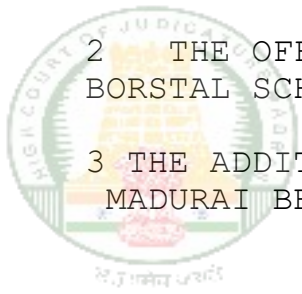
sd/-
24/11/2016

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Sub-Assistant Registrar (C.S.)
Madurai Bench of Madras High Court,
Madurai - 625 023.

TO

1 THE INSPECTOR OF POLICE,
VIRALIMALAI POLICE STATION,
PUDUKKOTTAI.



2 THE OFFICE INCHARGER
BORSTAL SCHOOL, THANJAVUR

3 THE ADDITIONAL PUBLIC PROSECUTOR,
MADURAI BENCH OF MADRAS HIGH COURT, MADURAI.

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JAM/30.11.16/DB/SAR 3 /4P-4C

ORDER

IN

CRL OP (MD) No.21049 of 2016

Date :24/11/2016