

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED :28.03.2018

CORAM:

THE HONOURABLE MR. JUSTICE M.S.RAMESH

Crl.O.P.No.9798 of 2018

Manimaran

.. Petitioner/Sole Accused

Vs.

1. State By:

Inspector of Police,
W-18, All Women Police Station,
MKB Nagar, Chennai
(Crime No.557/2017)

.. 1st Respondent/Complainant

2. R.Sankar

.. 2nd Respondent/De-facto complainant

3. M.Nivedha

.. 3rd Respondent/Wife of the Petitioner

PRAYER: Criminal Original Petition filed under Section 482 Cr.P.C. praying to call for the entire records connected with the case in Crime No.557 of 2017 on the 1st respondent-Police and quash the same.

For Petitioner: Mr.B.Janakiram

For Respondent-1: Mrs.P.Kritika kamal,
Government Advocate (Crl. Side)

For Respondent-2: Mr.R.Shankar (Party in-person)

For Respondent-3: Mrs.M.Nivedha (Party in-person)

O R D E R

When the matter came up for hearing today, the second respondent/defacto complainant as well as the third respondent/victim are personally present before this Court and identified themselves. They have also produced their Aadhar cards viz., R.Sankar/Defacto Complainant - Aadhar Card No.869619781030 and M.Nivedha/Victim - Aadhar Card No.430596762174.

2.Heard the learned counsel for the petitioner and the learned Government Advocate (Crl. Side) for the first respondent as well as the learned counsel for the respondents 2 & 3.

3.The learned counsel for the petitioner submitted that pending investigation in Cr.No.557 of 2017 on the file of the first respondent, the respondents 2 & 3 viz., the de-facto complainant as well as the wife of the petitioner M.Nivedha and the petitioner have amicably settled the dispute among themselves. Consequently, the de-facto complainant has filed an affidavit dated 21.03.2018 wherein he has stated that the dispute has been amicably settled and he has no objection to quash the proceedings in Cr.No.557 of 2017 on the file of the respondent police.

4.The third respondent/wife of the petitioner has also filed an affidavit dated 21.03.2018 ratifying the averments made in the affidavit.

5.The learned Government Advocate (Crl. Side) vehemently opposed the petition stating that by taking into account of the seriousness of the offence and in view of Section 8 of Protection of Children from Sexual Offences Act, the offence is not compoundable.

5.The Hon'ble Supreme Court of India in a judgment in Unnikrishnan @ Unnikuttan Vs. State of Kerala in Crl.MP. No. 18630 of 2016 dated 01.03.2017 has held that even in case where the offences are not compoundable registered under Section 320 Cr.P.C., compounding can be considered in view of the compromise arrived at between the parties. The relevant portion of the judgment is as follows:

"11.What emerges from the above is that even if an offence is not compoundable within the scope of Section 320 of Code of Criminal Procedure the Court may, in view of eh compromise arrived at between the parties, reduce the sentence imposed while maintaining the conviction.

12.Having regard to the facts of the present case, while taking into account the settlement arrived at between the parties and also considering the affidavits filed before us by each one of the applicants by way of joint application, we allow the application seeking permission to compound the offences."

6.In view of the above observations of the Hon'ble Supreme Court, I am of the considered opinion that the ends of justice

would be met by permitting the petitioners to compound the offences in view of the compromise arrived at between parties.

7. Recording the submissions made by the defacto complainant as well as the wife of the petitioner M.Nivedha in their affidavits dated 21.03.2018, **** the entire proceedings in S.C. No. 81/2018 on the file of the Mahila Court, Chennai** is quashed. Consequently, the Criminal Original Petition stands allowed. The affidavits dated 21.03.2018 filed by the defacto complainant and the wife of the petitioner M.Nivedha shall form part of the order.

s/d-

Assistant Registrar (CS-V)

Dated: 24.04.2018

***Amended as per order dated 28.06.2018 made in CrI.O.P.No.9798 of 2018.**

Sd/- Assistant Registrar (CS V)

Dated: 19.07.2018.

True Copy

Sub-Assistant Registrar

AT
To

To be substituted to the
order already despatched
on 10.05.2018.

1. The Inspector of Police,
W-18, All Women Police Station,
MKB Nagar, Chennai
(Crime No.557/2017)

2. The Public Prosecutor,
High Court, Madras.

+3 Ccs to Mr.Janakiram, Advocate sr 41488.

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CrI.O.P.No.9798 of 2018

LRS (CO)
SP(25/04/2018)
SP(24/07/2018)