

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 10.12.2018

CORAM

THE HON'BLE MR.JUSTICE N.ANAND VENKATESH

CrI.O.P.No.28416 of 2018

and

CrI.M.P.No.16559 of 2018

Omprasath

... Petitioner

-Vs-

1.State rep. by

The Inspector of Police,  
W-18, All Women Police Station,  
M.K.B.Nagar,  
Chennai - 600 039.

2.Muniayammal

... Respondents

Prayer: Criminal Original petition filed under Section 482 of Code of Criminal Procedure, to call for records and quash the entire further proceedings pending in S.C.No.171 of 2018 before the Mahila Court (Special Court), Chennai.

For Petitioner : Mr.V.Sambamurthy

For R1 : Mr.M.Mohamed Riyaz,  
Additional Public Prosecutor

ORDER

This petition has been filed seeking to quash the proceedings in S.C.No.171 of 2018, pending on the file of the Mahila Court, Chennai.

2.The learned counsel for the petitioner would submit that the petitioner and the second respondent's daughter namely Jerina @ Ammu loved each other. On 26.04.2017, both of them eloped and started living in Andhra Pradesh. The marriage was also conducted by the parents of the first petitioner. Thereafter, the first petitioner and his wife started living in a relative house at Pudhucherry.

3. In the mean time, the mother of the victim girl, gave a complaint to the respondent police and also filed H.C.P.No.877 of 2017 before this Court. Based on the directions by this

Court, the victim girl was also produced before this Court. This Court enquired the victim girl and even at that point of time she was four months pregnant. She also made a statement before the Court that she has married the petitioner and she has also become pregnant after the marriage. The petitioner was also enquired by this Court. This Court, after taking into consideration, the age of the girl, directed to hand over the girl to the custody of the de facto complainant.

4. Based on the FIR registered by the respondent police, the petitioner was arrested and he was in judicial custody for nearly fifteen days. Even after the release on bail, the petitioner continued to live with the second respondent's daughter. The second respondent's daughter also gave birth to a male child.

5. The respondent police have registered an FIR in Crime No.1058 of 2017 initially, as a girl missing case and thereafter, have altered it to an offence under Section 366(A) and Section 6 of the POCSO Act. On completion of investigation, a final report was filed before the Special Court, Chennai and the same has been taken on file in S.C.No.171 of 2018.

6. The victim girl was present before the Court along with the child. She made a categorical statement that she was born on 18.11.1999 and she has attained majority. She further stated that she married the petitioner out of love and affection and she was not compelled by the petitioner to marry him. She further stated that there is a male child out of the marriage and continuance of the criminal proceedings will unnecessarily affect the future of the petitioner, victim girl, as well as the child. In order to substantiate the date of birth, the victim girl produced the Transfer Certificate issued by the Head Mistress of Chennai Higher Secondary School, Old Washermenpet, Chennai- 600 021, wherein, the date of birth of the petitioner is shown as 18.11.1999. The victim girl also produced the Voter Identity Card issued by the Election Commission of India, wherein the same date of birth is found.

7. The mother of the victim girl, namely the second respondent is also present before this Court. She also stated that her daughter has happily settled down with the petitioner and therefore, she does not want to further prosecute this case.

8. The petitioner was also present before this Court and he has stated that he is happily living with his wife and child at Ezhil Nagar, Kodungaiyur and the parents belonging to both the families have accepted this marriage.

9. It is clear from the above that no useful purpose of

served by keeping the proceedings pending before the Court below. It will not be in the interest of any of the parties to keep the proceedings pending. Even though, the offence in question is non compoundable in nature, this Court in exercise of its jurisdiction under Section 482 of Cr.P.C. can interfere with the same in accordance with the guidelines given by the Hon'ble Supreme Court reported in 2017 9 SCC 641- (Parbathbhai Aahir @ Parbathbhai Vs. State of Gujrat). This Court is of the considered view that the proceedings need to be interfered by this Court.

10. In the result, the proceedings in S.C.No.171 of 2018 on the file of the Mahila Court (Special Court), Chennai, is hereby quashed and the Criminal Original Petition is allowed on the basis of the compromise arrived at between the parties.

Sd/-  
Deputy Registrar

//True Copy//

Sub Assistant Registrar

LPP/vsa

To

1.The Mahila Court Judge, (Special Court),  
Chennai.

2.The Inspector of Police,  
W-18, All Women Police Station,  
M.K.B.Nagar,  
Chennai - 600 039.

3.The Public Prosecutor,  
High Court, Madras.

+3 cc to Mr.V.Sambamurthy, Advocate Sr.No.85232

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CSL/27.12.2018

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