

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 30.04.2019

CORAM:

THE HONOURABLE MR.JUSTICE G.K.ILANTHIRAIYAN

CRL.O.P.No. 9930 of 2019

P.Narasimmalu

... Petitioner / Accused

Vs.

1. The State rep.by
The Inspector of Police,
J6, Thiruvanmiyur Police Station,
Thiruvanmiyur,
Chennai - 41.
(Crime No.2083 of 2017) ...1st Respondent / Complainant
2. Panju ...2nd Respondent / Defacto
Complainant
3. R.Nagasumitra ...3rd Respondent / Victim

PRAYER: Criminal Original Petition filed under Section 482 of Cr.P.C. praying to call for the records in S.C.No.37 of 2018, on the file of Sessions Judge, Magalir Neethimandram (Mahila Court), Chennai, registered for the alleged offences under Sections 366 (A) of IPC r/w 6 of POCSO Act-2012 and quash the same.

For Petitioner : Mr.W.Camyles Gandhi

For Respondents

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

For R2 : Mr.Santhakumar

For R3 : No appearance

WEB COPY
O R D E R

This petition has been filed to quash the proceedings in S.C.No.37 of 2018 on the file of the learned Sessions Judge, Mahila Court, Chennai.

2.The learned counsel appearing for the petitioner submitted that on the complaint lodged by the second respondent herein, the case has been registered in Crime No.2083 of 2017 for the

offences under Sections 366(A) of IPC & Section 5(L) r/w 6 of POCSO Act 2012, alleging that on 16.05.2017, her minor daughter aged about 16 years was kidnapped by the petitioner and also abandoned her without her consent. Initially, the case has been registered for the offence under Section 366 of IPC and thereafter altered into the Sections 366(A) of IPC & Section 5 (L) r/w 6 of POCSO Act 2012. Accordingly, the charge sheet has been filed and the same has been taken cognizance for the above said offences in S.C.No.37 of 2018 by the Mahila Court, Chennai.

2.1.The learned counsel appearing for the petitioner further submitted that the petitioner and the third respondent herein fell in love and they got married and living happily. In fact, the second respondent family had full knowledge about their marriage, but she objected their marriage. Therefore, she lodged false complaint and without considering the above said facts and circumstances, the first respondent registered a case and file final report. Though the third respondent stated in her statement recorded under Section 164 of Cr.P.C., it was recorded under the tread and coercion. Now, the third respondent/victim also filed an affidavit as follows :-

"2.I state that the petitioner herein and myself jointly did that act alleged by mother without knowing the consequence of the said events, but which were done due to pure love, affection and care between me and the petitioner. I state that allegations arrayed against the petitioner will be unacceptable and immaterial. Because I have ran away with the petitioner with my consent. I state that what was contended by me in 164 statement itself is not true but only due to the threatening created by the 2nd respondent herein.

3.I state that on that earlier occasion, I have not attained the age of majority but recently I and the petitioner get married on 24.10.2018. In addition to that, we both of us entered into matrimonial life and leading a problem free life except the criminal proceedings in S.C.No.37 of 2018, on the file of Sessions Judge, Magalir Neethimandram (Mahila Court), Chennai, which standing as a hurdle in our life. In these circumstances, unless this Hon'ble Court quash the proceedings in S.C.No.37 of 2018, on the file of Sessions Judge, Magalir Neethimandram (Mahila Court), Chennai, which is against the petitioner, who is my husband now, I will be put to serious prejudice and untold hardships and our life also will be perished."

Therefore, he prayed for quashment of this criminal proceedings.

3.The learned counsel appearing for the second respondent submitted that the offence under Section POCSO Act cannot be quashed on compromise, since the third respondent victim was a minor at the time of occurrence. He further submitted that the statement recorded under Section 164 of Cr.P.C., would revealed that the petitioner committed very serious offence, as such he vehemently opposed to quash the proceedings.

4.It is seen that the petitioner and the third respondent fell in love and they got married. At the time of occurrence the third respondent/victim girl was a minor and now she married the petitioner and living happily. In this regard, it is relevant to rely upon the judgement of this Court passed in Crl.O.P.No.14121 of 2016 as follows :-

7. Admittedly, Renuga was a minor, less than 18 years,when this happened and therefore, Thiyagarajan cannot be absolved from criminal liability just because of the consensual sexual relationship. However, this Court cannot also ignore the fact that, subsequently, Thiyagarajan and Renuga have got married and they are now leading a happy married life.

8. Today, Renuga and Thiyagarajan are present and they have filed a Joint memo, wherein, it is stated as follows;

"Meanwhile the 1st party married the 2nd party herein on 24.01.2016 at "K.Kamaraj Thirumana Mandapam, Ariyankuppam, Puducherry as per Hindu rites and custom, in presence of elder members of both family. Subsequently, the said marriage was also registered before the office of the Sub-registered, Puducherry on 02.03.2016. And right from the date of marriage they have been living together as noble couple to the society and leading conjugal life at the No.36,Mariamman Koil Street, Velrampet, Puducherry. Out of conjugal life the 2nd respondent once again has become a pregnant and she is going to give birth to child very soon. Since the pendency of the criminal case causing huge mental agony/pain/distress on us day by day. We would like to settle the issue amicably. Hence, the Second Party herein mutually agreed to withdraw the case against first party herein. Hence, petitioners and second respondent most humble prayed that this Hon'ble High Court may be please to pass suitable orders and thus render justice."

9. D.Sendhilkumar, Inspector of Police, Orleanpet Police Station, Puducherry, is present and identified the parties.

10. The learned Additional Public Prosecutor (Pondy), on instructions, submitted that Thiagarajan and Renuga have no doubt got married and they are living together.

In view of these developments, this Court is of the view that it will serve the interest of justice, if the prosecution is quashed and accordingly, the criminal original petition is allowed. Consequently, connected Miscellaneous Petition is closed.

5. In view of the above judgment and also the affidavit filed by the victim/ third respondent, the pendency of the proceedings in S.C.No.37 of 2018 on the file of the learned Sessions Judge, Magalir Neethimandram (Mahila Court), Chennai, would not serve any purpose. Therefore this Court is inclined to quash the proceedings.

6. Accordingly, this criminal original petition stands allowed and the proceedings in S.C.No.37 of 2018 on the file of the learned Sessions Judge, Magalir Neethimandram (Mahila Court), Chennai is hereby quashed.

Sd/-

Assistant Registrar (CS-V)

//True Copy//

Sub Assistant Registrar

at/rts

To

1. The Sessions Judge,
Magalir Neethimandram (Mahila Court),
Chennai.
2. The Public Prosecutor,
High Court of Madras,
Chennai.
3. The Inspector of Police,
J6, Thiruvannamiyur Police Station,
Thiruvannamiyur,
Chennai - 41.

4. The Inspector of Police,
Orleanpet Police Station,
Pondicherry.

+1 cc to Mr.W.Camyles Gandhi, Advocate, S.R.No.43095

CRL.O.P.No. 9930 of 2019

MR (CO)
SSM(19/06/2019)



WEB COPY