

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 22.11.2019

CORAM:

THE HONOURABLE MR. JUSTICE M.S.RAMESH

Crl.O.P.No.31375 of 2019

1. M.Suriyakumar
2. Sakkappan
- S/o.Marappan (Late)
3. K.Radha
4. M.Settu
5. M.Madhan
6. M.Kala
7. S.Marappan
8. S.Kannaki

.. Petitioners

Vs.

1. State rep. by
The Inspector of Police,
AWPS, Hosur Police Station,
Krishnagiri District.
2. Sakkappan
S/o.Chinagappa

.. Respondents

Criminal Original Petitions filed under Section 482 Cr.P.C. praying to call for the entire records in connection with the FIR in Crime No.8/2019 dated 13.04.2019 on the file of the Inspector of Police, All Women Police Station, Hosur and quash the same.

For Petitioners : Mr.R.Sankarasubbu
for M/s.S.Rajanikanth

For Respondents : Mr.Saratha Devi. V.
Govt. Advocate for R1

ORDER

This Criminal Original Petition has been filed to call for the entire records in connection with the FIR in Crime No.8/2019 dated 13.04.2019 on the file of the Inspector of Police, All Women Police Station, Hosur and quash the same.

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

3. In normal circumstances, this Court would not interfere in having the First Information Report quashed when the offences are under POCSO and under the Child Marriage Act. But in peculiar circumstances, this case has invoked the consciousness of this Court to take a lenient view in the following circumstances:-

1. The victim girl was born on 04.06.2002 and is now aged about 17 years and 5 months. She had fallen in love with the first accused and apparently eloped with him on 10.04.2019. The father of the victim girl had given the complaint, which came to be registered in the impugned FIR.No.8/2019.
2. After the elopement, it is claimed that the victim girl and the first accused had married each other on 12.04.2019. In these circumstances, the respondent police had registered the FIR for the offences under Section 5 of POCSO Act and Section 9 of Child Marriage Act, since the victim girl was only 17½ years. Incidentally, the first accused was aged about 24 years now.
3. Right from the date of elopement, both the first petitioner and the victim girl have been living together as partners/husband and wife. It is also stated that the marriage was consummated. Pursuant to the marriage, the complainant has also condoned the elopement and had accepted the first petitioner as his son-in-law. The parents of the first petitioner have also accepted the victim girl as their daughter-in-law. All of them are personally present before this Court and have made an earnest request that the proceedings may be quashed, in support of which, a Joint Memo of Compromise has also been filed, wherein the defacto complainant as well as his wife had stated that they intend to see the first accused and victim girl lead a peaceful life and to maintain harmony and therefore, sought for quashing the petition.

4. When all the parties have amicably resolved the dispute particularly, when the victim has been living with the first accused as husband and wife for the past six months, this Court is of the view that this is a fit case to invoke its inherent powers under Section 482 Cr.P.C. The further reason to invoke such powers is on the consideration that even if a charge sheet is filed and the witnesses may not support the case of the prosecution. In view of the compromise arrived and the Joint Memo of Compromise filed before this Court. As such, if the petitioners are directed to face a criminal trial, it will only be a futile exercise.

5. In the light of the above observation, the Criminal Original Petition stands allowed and the investigation in Crime No.8/2019 on the file of the Inspector of Police, All Women Police Station, Hosur, shall stand quashed.

*Xerox copy enclosed of Joint Compromise Memo herein

Sd/-
Assistant Registrar(CS)

//True Copy//

Sub Assistant Registrar

KMI

To

1. The Inspector of Police,
AWPS, Hosur Police Station,
Krishnagiri District.
2. The Public Prosecutor,
High Court, Madras.

+1cc to Mr.S.Rajinikanth , Advocate SR.No. 97833

CrI.O.P.No.31375 of 2019

A.SK(06/01/2020)