



WEB COPY

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED :22.11.2021

CORAM

THE HON'BLE MR.JUSTICE M.NIRMAL KUMAR

Crl.O.P.Nos.5178 & 5364 of 2021

S.Sivakumar

...Petitioner/Sole Accused
in both the Petitions

Versus

1.The Inspector of Police
Peralam Police Station
Thiruvavarur District.
Crime No.72 of 2019.

..1st Respondent/Complainant
in both the Petitions

2.Lenin

...2nd Respondent/ Defacto Complainant
in Crl.O.P.No.5178/2021

2.Manjula

...2nd Respondent/ Defacto Complainant
in Crl.O.P.No.5364/2021

3.Arthi

...3rd Respondent/Victim
in both the Petitions

Prayer in Crl.O.P.No.5178/2021: This Criminal Original Petition is filed under Section 482 of Criminal Procedure Code, to call for the records and quash the proceedings in Spl.SC.No.18 of 2019 pending on the file of the learned Additional Session Judge, Fast Track Mahila Court, Thiruvavarur.

Prayer in Crl.O.P.No.5364/2021: This Criminal Original Petition is filed under Section 482 of Criminal Procedure Code, to call for the records and quash the proceedings in Spl.SC.No.33 of 2019 pending on the file of the learned Additional Session Judge, Fast Track Mahila Court, Thiruvavarur.

For Petitioner : Mr.P.Muthamizh Selvakumar
(in both the petitions)

For Respondents :Mr.R.Vinothraja for R1
(in both the petitions) Government Advocate (Crl.Side)



C O M M O N O R D E R

The Criminal Original Petition No.5178 of 2021 has been filed to call for the records and quash the proceedings in Spl.SC.No.18 of 2019 pending on the file of the learned Additional Session Judge, Fast Track Mahila Court, Thiruvarur.

2. The Criminal Original Petition No.5364 of 2021 has been filed to call for the records and quash the proceedings in Spl.SC.No.33 of 2019 pending on the file of the learned Additional Session Judge, Fast Track Mahila Court, Thiruvarur.

3. The case of the prosecution is that on 19.01.2019, the third respondent, who is a minor girl, went to School, but did not return. Hence, the second respondent in Crl.O.P.No.5178 of 2021, who is the father of the victim girl, gave a complaint and an FIR in Crime No.72 of 2019 was registered initially as girl missing. After enquiry, it was found that the petitioner had love affair with the victim girl and they went to Tirupur, wherein the petitioner had physical relationship with the victim girl. Hence, based on the third respondent's statement, the respondent Police altered the proviso in Crime No.72 of 2019 under Sections 366, 365, 376 of IPC r/w 5(1), 6 of POCSO Act r/w 9 of Prohibition Child Marriage Act. After investigation, the final report was filed before the Judicial Magistrate Court, Nannilam and the same was committed to the Additional Mahila Court, Thiruvarur and taken on file in Spl.S.C.No.18 of 2019.

4. On 01.10.2019, the petitioner and third respondent again left the house and went to Erode. This time, the second respondent in Crl.O.P.No.5364/2021, who is the mother of the victim girl, made a complaint and the same was registered as Crime No.522 of 2019 under Section 366 IPC and after investigation, altered the provision as Section 366 r/w 5(1), 5(J-iii), and Section 6 of Protection of Child from Sexual Offences Act 2012. The first respondent filed final report before the learned Judicial Magistrate Court, Nannilam and the same was committed to the Additional Mahila Court, Thiruvarur and taken on file in Spl.SC.No.33 of 2019.

5. The learned counsel for the petitioner submitted that the petitioner and the victim girl were in love affair with each other. On the compulsion of the victim girl only, the petitioner went along with the victim girl. However, a case was registered against the petitioner.



6. The learned counsel for the petitioner submitted that on 28.10.2020, the third respondent/victim girl delivered a male child and with the blessing of their parents, the petitioner and the third respondent got married on 14.12.2020. The same was accepted by both the families and they are living happily. Now both the families settled the disputes. Hence, the proceedings in SPL.SC.Nos.18 and 33 of 2019 may be quashed.

7. The learned Additional Public Prosecutor appearing for the first respondent submitted that the de-facto complainants' minor daughter eloped with the petitioner twice. Hence, case in Crime Nos.72 and 522 of 2019 were registered against the petitioner. Subsequently, the petitioner married the victim girl with the blessings of both the families and she delivered a male child. Now, de-facto complainants entered into a compromise with the petitioner and they are not interested to proceed the case further.

8. Today, the second respondents/de-facto complainants, the third respondent/victim girl and the petitioner/accused are present before this Court and submitted that they settled the dispute amicably.

9. Under normal circumstances, this Court would not quash the proceedings under the POCSO Act, however, on a reading of FIRs and final reports in this case, it is alleged by the second respondents/de-facto complainants that their daughter/third respondent, who was a minor girl at the time of incident, had ran away with the accused. During the pendency of the investigation, de-facto complainant's daughter and the accused got married on 14.12.2020 and delivered a child. Hence, the de-facto complainants do not want to proceed the case further and requested to quash the proceedings.

10. In similar circumstances, this Court in the case of "Sabari Vs. Inspector of Police reported in 2019(2) MLJ CrI.110", had observed that during the adolescent age, boys and girls got involved in a relationship, such relationship would be the result of mutual innocence and biological attraction, which cannot be construed as an unnatural one or alien to between relationship of opposite sexes.

11. In a similar situation in the case of "Kumar @ Tennish Vs. The Inspector of Police, Latheri Police Station, Katpadi Taluk, Vellore and another in CrI.O.p.No.16648 of 2018",



this Court had quashed the proceedings on the compromise arrived between the accused and defacto complainant.

12. In view of the above and the compromise arrived between the parties, this Court finds that continuation of the proceedings will serve no purpose and it is only be an abuse of process of law.

13. In the result, these Criminal Original Petitions stand allowed and as a sequel, the proceedings in Spl.S.C.Nos.18 and 33 of 2019, pending on the file of the learned Additional Session Judge, Fast Track Mahila Court, Thiruvarur, are quashed.

s/d-
Assistant Registrar

//True Copy//

Sub-Assistant Registrar

dna

To

1.The Additional Session Judge, Fast Track Mahila Court,
Thiruvarur.

2.The Public Prosecutor
High Court, Madras.

Crl.O.P.Nos.5178 & 5364 of 2021

VBM(CO)
SP(17/12/2021)