



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.No.11285 of 2021

Johnson

...Petitioner/Accused

Versus

1.State through

The Inspector of Police
Sankar Nagar Police Station
S.T.Mount District
(Crime No.864 of 2018)

2.R.Sangeetha

...Respondents/Complainant/Defacto Complainant

Prayer: This Criminal Original Petition is filed under Section 482 of Criminal Procedure Code, to call for the records connected with the case in Crime No.864 of 2018 on the file of the respondent Police and quash the same as illegal in so far as the petitioner is concerned.

For Petitioner : Mr.B.M.Santharam

For Respondents : Mr.R.Vinothraja for R1
Government Advocate (Crl.Side)

O R D E R

The Criminal Original Petition has been filed to call for the records connected with the case in Crime No.864 of 2018 on the file of the respondent Police and quash the same as illegal insofar as the petitioner is concerned.

2. The case of the prosecution is that on 14.10.2018, the de-facto complainant's minor daughter, who was aged about 16 years, went to nearest petti shop, but she did not return. Hence, on the very next day, the de-facto complainant gave a complaint and an FIR 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 Vellore,



WEB COPY

wherein the petitioner had physical relationship with the victim girl. Thereafter, based on the victim girl's statement, the respondent Police altered the proviso in Crime No.864 of 2018 for the offence punishable under Sections 366(A) IPC r/w 6 of the POCSO Act.

3. 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 they went to Vellore. However, a case was registered against the petitioner.

4. The learned counsel for the petitioner submitted that on 10.06.2020, the petitioner married the de-facto complainant's daughter, after the victim girl completed 18 years. The same was accepted by both the families and they are living happily. Now both the families settled the disputes and they filed a joint compromise. Hence, the case in Crime No.864 of 2018 may be quashed.

5. The learned Additional Public Prosecutor appearing for the first respondent submitted that the de-facto complainant's minor daughter eloped with the petitioner. Hence, a case in Crime No.864 of 2018 was registered against the petitioner for the offence punishable under Sections 366(A) IPC r/w 6 of the POCSO Act. After the victim girl attained majority, the petitioner married her with the blessings of both the families and now, they entered into a compromise. Hence, they are not interested to proceed the case further.

6. Today, the de-facto complainant, the victim girl and the accused are present before this Court and they confirmed the marriage of the petitioner with the victim girl and they filed a compromise memo to that effect.

7. Under normal circumstances, this Court would not quash the FIR under POCSO Act, however, on a reading of FIR in this case, it is alleged by the de-facto complainant that her daughter, who was aged about 16 years 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 10.06.2020. Hence, the de-facto complainant does not want to proceed the case further and requested to quash the FIR. In this regard, the petitioner and the de-facto complainant, filed a common affidavit and a compromise memo, dated 15.06.2021.



WEB COPY

8. 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.

9. 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.

10. 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.

11. In the result, this Criminal Original Petition stands allowed and as a sequel, the proceedings in Crime No.864 of 2018, on the file of the 1st respondent police, is quashed and the terms of common affidavit and a compromise memo shall form part and parcel of this order.

(* Memo of Compromise Xerox copies enclosed)

s/d-

Assistant Registrar

//True Copy//

Sub-Assistant Registrar

To

1.The Inspector of Police
Sankar Nagar Police Station
S.T.Mount District
(Crime No.864 of 2018)

2.The Public Prosecutor
High Court, Madras.

+2 CCs to Mr.B.M.Santharam, Advocate sr 60437

CrI.O.P.No.11285 of 2021

RSV(CO)
SP(15/12/2021)