



WEB COPY

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 09.07.2021

CORAM:

THE HON'BLE MR.JUSTICE M.NIRMAL KUMAR

CRL.O.P.No.11874 of 2021

V.Balaji

... Petitioner/Accused

Versus

1.The State Rep. by,
The Inspector of Police,
All Women Poilce Station,
Madipakkam.
(Crime No.13 of 2020).

2.Suvarchala

3.Minor.Thanmayee @ Alaparthi Thanmayee,
D/o.Jagadeesh Chandra,
Rep. through her Mother and Natural Guardian,
Mrs.Suvarchala. ... Respondents

PRAYER: Criminal Original Petition filed under Section 482 of the Code of Criminal Procedure, to call for the entire records pertaining to the case in Spl.S.C.No.22 of 2021 on the file of the Special Court for Exclusive Trial of Cases under POCSO Act, Chengalpattu District and quash the same.

For Petitioner : Mr.R.L.Dhilipan Pandian

For R1 : Mr.A.Damodaran
Government Advocate (Crl. Side)

For R2 & R3 : Mr.P.Samuvel Gunasingh

ORDER

This Criminal Original Petition has been filed to quash the proceedings in Special S.C.No.22 of 2021 pending on the file of the Special Court for Exclusive Trial of Cases under the Protection of Children from Sexual Offences Act, 2012, Chengalpet.



2.The case of the prosecution is that during the year 2004, the 2nd respondent got married with one Jagadeesh Chandira and they had two children viz., Amsini and the victim girl. Due to misunderstanding, the 2nd respondent and her husband got separated. The 2nd respondent left the elder daughter with her parents in Vijayawada and was living in Chennai along with the victim girl. During the month of September 2019, her husband died. Thereafter, the 2nd respondent came in contact with the petitioner and developed relationship with him. The petitioner is a married man and a divorce case was pending with his wife. The petitioner was running a Black and White Saloon Shop and living at No.101, Ganesh Street, G1 Sembak Apartment, Chennai. During that time, the petitioner often made bad touch of her daughter when she questioned, he gave reason that it is not wrong and it is his habit. On 28.08.2020, at about 12.00 a.m., when the victim girl was sleeping, the petitioner came in a drunken state, kept his hand on the victim girl chest and also tried to remove her pants. The victim girl pushed the petitioner away. When the 2nd respondent woke up, the victim girl informed the happenings to her. The petitioner informed the 2nd respondent that if her daughter adjusted with him, he can be with her. Hence, the 2nd respondent lodged a complaint to the 1st respondent Police. On receipt of the complainant, an FIR in Crime No.13 of 2020 was registered for offence under Sections 9 (1), 9(m) and 10 of the Protection of Children from Sexual Offence Act, 2012. On completion of investigation and on collection of materials, charge sheet was filed before the trial Court.

3.The case is still at the stage of trial. By passage of time, the parties have decided to bury their hatchet and compromise the dispute amicably among themselves.

4.The learned counsel for the petitioner submitted that at the instance of the elders and well wishers of the petitioner as well as the respondents 2 and 3, a compromise has been arrived between them. The 2nd respondent and the petitioner were in living relationship and later, the 2nd respondent wanted to move away from her relationship with the petitioner and leave back to Vijayawada to be with her elder daughter and parents, which was resisted by the petitioner and she was not allowed to leave. Hence, making allegation of bad touch with the victim girl/3rd respondent, the petitioner has been implicated in this case. The 1st respondent Police without conducting proper investigation, mechanically filed the charge sheet before the trial Court. The respondents 2 and 3 now realized their mistake by considering their past relationship and have no objection for quashing the proceedings against the petitioner. He further submitted that the respondents 2 and 3 had taken a decision with regard to the compromise on their own will and there is no



१२.१ प्रयोग ५२८

7. The Affidavit of the respondents 2 and 3 dated 06.06.2021 and the Joint Compromise Memo of the petitioner dated 06.06.2021 filed before this Court. The respondents 2 and 3 are present through Video Conference before this Court and reiterated and admitted that they have entered into compromise, amicably settled their issues. This Court also enquired both the parties and was satisfied that the parties have come to an amicable settlement between themselves. Further, it is admitted that the 2nd respondent is a widowed lady and was having living relationship with the petitioner. The 2nd respondent admitted before this Court that since she wanted to move away from the relationship with the petitioner, there was some misunderstanding. Due to which, a complaint came to be lodged. The victim girl was adopted to the 2nd respondent and it was the



2nd respondent who had tutored the victim girl to give a fake version as advised by her mother. In this case, the petitioner alleged to have touched the victim girl. This touch is improper with an false intention. The respondents 2 and 3 on deliberation and verification realized their mistake and came forward for a compromise and a compromise affidavit filed to that effect.

8. Under such circumstances, no useful purpose will be served in keeping the proceedings pending, even though, the offences involved are not compoundable in nature. In the light of the guidelines given by the Hon'ble Supreme Court reported in 2017 9 SCC 641-(Parbathbhai Aahir @ Parbathbhai Vs. State of Gujrath), and after exercising due caution as advised by the Hon'ble Supreme Court in The State of Madhya Pradesh v. Dhruv Gurjar and Another reported in (2019) 2 MLJ Cr1 10), this Court in exercise of its jurisdiction under Section 482 Cr.P.C. quashes the proceedings in Special S.C.No.22 of 2021 on the file of the Special Court for Exclusive Trial of Cases under the Protection of Children from Sexual Offences Act, 2012, Chengalpet.

9. This Criminal Original Petition stands allowed and as a sequel, the proceedings in Special S.C.No.22 of 2021 on the file of the Special Court for Exclusive Trial of Cases under the Protection of Children from Sexual Offences Act, 2012, Chengalpet is quashed and the terms of affidavit shall form part and parcel of this order.

Sd/-
Assistant Registrar(CS VII)

//True Copy//

Sub Assistant Registrar

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To

1. The Special Court for Exclusive Trial of Cases under the Protection of Children from Sexual Offences Act, 2012, Chengalpet.
2. The Inspector of Police,
All Women Police Station,
Madipakkam.



3.The Public Prosecutor,
High Court, Madras.

Copy to

1.The Hon'ble Chairman,
POCSO Committee,
High Court, Madras-104.

+2cc to Mr.R.L.Dhilipan Pandian, Advocate (SR No.32544)

CRL.O.P.No.11874 of 2021

PVS (CO)
PR (28/07/2021)