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IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 16.12.2021

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THE HONOURABLE MR.JUSTICE M.NIRMAL KUMAR

CrI.O.P.No.13835 of 2021
and CrI.M.P.Nos.7549 & 7550 of 2021

Thiruppathi

... Petitioner

Vs.

1.State represented by
The Inspector of Police,
Sankarapuram Police Station,
Villupuram District,
(Crime No.1069 of 2020)

2.Latha

... Respondents

PRAYER: Criminal Original Petition is filed under Section 482 of the Code of Criminal Procedure, to call for the entire records connected with Spl.S.C.No.138 of 2020 pending on the file of the Special Court for POCSO Act Cases, Villupuram and quash the charge sheet/final report.

For Petitioner : Mr.C.Prabhu

For R1 : Mr.E.Raj Thilak
Additional Public Prosecutor

O R D E R

This Criminal Original Petition is filed to call for the entire records connected with Spl.S.C.No.138 of 2020 pending on the file of the Special Court for POCSO Act Cases, Villupuram and quash the charge sheet/final report.

2.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.

3.The gist of the case is that on 27.07.2021, the second respondent's daughter Sandiya, aged about 17 years while studying class 12 was found missing on the early morning of 20.07.2020 and it was alleged that the villagers informed that the petitioner and the second respondent's daughter were in love with each other and the second respondent also allegedly to have stated that the petitioner was also missing since the day of the second respondent's daughter missing. Therefore, the second respondent suspected that the petitioner could have kidnapped her daughter. Hence, he had lodged a complaint



before the first respondent police and a case in Crime No.1069 of 2020 came to be registered for offence under Section 366A IPC and the first respondent had altered the FIR by adding Section 5(1) and Section 6 of Prevention of Child from Sexual Offences Act, 2012 (POCSO Act) and Section 9 of the Prohibition of Child Marriage Act, 2006 through an alteration report dated 14.08.2020.

4. In the mean time, it has been unanimously decided by the petitioner and the second respondent to put an end to all the litigation between them. To that effect, the second respondent/defacto complaint has filed an affidavit stating that the petitioner and the second respondent's daughter were in love with each other for past three years. Initially, the second respondent opposed their relationship and even preferred criminal complaint before the first respondent police on 27.07.2020. However, after seeing their love for each other and their continuous intention to lead a life together, the second respondent and her family members have decided to bury the past and they want to see them to lead a peaceful and prosperous life ahead. The petitioner has completed I.T.I. [Electrician] Course from ITI [Dhanamoorthy Industrial Training Centre, Thiyagadurugam] after completing his schooling. However, due to the present criminal case, the petitioner is unable to get job opportunities as Electrician. Because of this, the petitioner is engaged in driving loading vehicle (TATA ACE).

5. The second respondent's daughter date of birth is 25.03.2003 and the marriage between the petitioner and the second respondent's Sandhiya happened on 07.07.2021, after completion of 18 years of age (attaining marriageable age) and they are living together happily. Therefore, the second respondent do not intent to disturb their peaceful life and as a mother, the second respondent wants to see her daughter lead a happy and peaceful married life.

6. The learned Additional Public Prosecutor appearing for the first respondent also confirms the same.

7. Under such circumstances, no useful purpose will be served in keeping the case 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 Gujrat), 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 case in Spl.S.C.No.138 of 2020, pending on the file of the Special Court for POCSO Act Cases, Villupuram.

8. This Court in the case of "Sabari Vs. Inspector of Police reported in 2019(2) MLJ Cr1.110", had observed that



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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 the light of the above decisions and considering the fact that the continuation of the proceedings would affect the peaceful life of the victim girl and the petitioner, this Court is inclined to quash the proceedings against the petitioner in Special S.C.No.138 of 2020, pending on the file of the Special Court for POCSO Act Cases, Villupuram, is quashed.

11. Accordingly, this Criminal Original Petition is allowed. The affidavits filed by the 2nd respondent, shall form part and parcel of this case. Consequently, the connected Miscellaneous Petitions are closed.

* Herein enclosed the Xerox copy of the Compromise Affidavit

Sd/-

Assistant Registrar (CS-VI)

//True Copy//

Sub Assistant Registrar

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To

1. The Special Judge,
Special Court for POCSO Act Cases, Villupuram.
2. The Inspector of Police,
Sankarapuram Police Station,
Villupuram District.
3. The Public Prosecutor,
High Court, Madras.

+2ccs to Mr.C.Prabhu, Advocate SR. No.67691

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