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IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 26.10.2021

CORAM

THE HONOURABLE MR.JUSTICE M.NIRMAL KUMAR

Crl.O.P.No.16805 of 2021

Anwar Basha ... Petitioner

Vs.

1. The Inspector of Police,
W35 All Women Police Station,
Tambaram.
(Crime No.1766 of 2020).

2. Lalitha ... Respondents

PRAYER: Criminal Original Petition is filed under Section 482 of the Code of Criminal Procedure, to call for the records relating to the proceedings in Crime No.1766 of 2020 on the file of the Inspector of Police, W35 All Women Police Station, Tambaram and quash the proceedings therein pending against the petitioner herein.

For Petitioner : Mr.T.Vijayaragavan

For R1 : Mr.A.Damodaran,
Additional Public Prosecutor

For R2 : Mr.S.Kumar

ORDER

This Criminal Original Petition has been filed to quash the FIR in Crime No.1766 of 2020, dated 25.12.2020, on the file of the 1st respondent Police.

2.The petitioner is an accused in Crime No.1766 of 2020, which was registered on the complaint given by the 2nd respondent, for offence under Sections 366 IPC and Sections 5 (1), 5(j)(ii) and 6 of the Protection of Children from Sexual Offence Act, 2012.

3.The gist of the case is that the 2nd respondent, the mother of the victim girl lodged a complaint that she was working in a private company as House Keeping. Her daughter/victim girl, who aged about 17 years, was studying 12th STD in St.Marrys School, Chengalpet and her date of birth was 29.03.2004 at the time of occurrence. On 20.11.2020, the 2nd respondent and the victim girl had gone to PF office to renew the pension scheme. At about 12.00 noon, when they were purchasing fruits in subway in MRM Road, her daughter/victim



girl was found missing. On suspecting that the victim girl would elope due to the love affair with the petitioner, she lodged a complaint came to the 1st respondent Police.

4.The learned counsel for the petitioner submitted that the petitioner and the 2nd respondent's daughter were in love with each other prior to the occurrence. The 2nd respondent made arrangement for marriage of her daughter with elder person, which was not agreeable to her. Hence, she forced the petitioner to take her away, otherwise she would commit suicide. Having no other option, the petitioner accompanied the victim girl and they got married in Dhargah near Manaparai. In the meanwhile, the victim girl to show her commitment to the love and affair with the petitioner, she converted herself to Islam.

5.The learned counsel further submitted that now both the family are willing to perform marriage after the victim girl attains majority and the issues between them are resolved. The 2nd respondent and the victim girl have filed the Joint Compromise Memo to that effect.

6.The learned Additional Public Prosecutor appearing for the 1st respondent submitted that the 2nd respondent was working in a private company as House Keeping and her daughter, aged about 17 years, was studying 12th STD in St.Marrys School, Chengalpet and her date of birth is 29.03.2004. On 20.11.2020, the 2nd respondent and her daughter had gone to PF office to renew the pension scheme. When they were purchasing fruits in subway in MRM Road, the victim girl was found missing. On prediction that she would elope with the petitioner due to love affair, she lodged a complaint to the 1st respondent Police and a case in Crime No.1766 of 2020 under the Girl Missing has been registered. During investigation, the victim girl was secured and the petitioner was arrested. It was found that the petitioner and the victim girl got married in Dhargah at Manaparai and were living together as husband and wife and now, she is three months pregnant. During the course of investigation, witnesses examined, their statements recorded and documents collected. The relationship between the petitioner and the victim girl has spoken by the witnesses. The victim girl was produced before the learned Judicial Magistrate for recording the statement under Section 164 Cr.P.C. At this stage, entertaining the above quash petition is not proper.

7.The 2nd respondent along with her daughter/victim girl appeared before this Court, filed the Joint Compromise Memo and reiterated the compromise arrived with the petitioner. They stated in the compromise memo that the 2nd respondent agreed to settle the issue amicably since the petitioner and her daughter/victim girl loved each other at the time of occurrence. After the victim girl eloped with the petitioner, they got married in Dhargah near Manaparai. Thereafter, the



petitioner was arrested and remanded to judicial custody. Now, both the families are arranging for marriage after she attains majority. The victim girl is now three months pregnant. Hence, they agreed to withdraw the case in Crime No.1766 of 2020 on the file of the 1st respondent Police.

8.This Court considered the rival submissions and perused the materials available on record and also the Joint Compromise Memo filed by the 2nd respondent and her daughter/victim girl.

9.Today, the petitioner, 2nd respondent and her daughter/victim girl appeared before this Court. The victim girl confirmed the relationship with the petitioner and her commitment to get married. Further, she stated that she is staying with the petitioner's family with the concurrence and approval of her mother/2nd respondent. The relationship and the love affair between the petitioner and the victim girl is not denied. Now, in few months the victim girl attains majority. In the statement recorded under Section 164 Cr.P.C., the victim girl state that on her own, she left her parents and joined the petitioner due to love affair and affection.

10.It is seen that the victim girl forced the petitioner to take her away, since her mother/2nd respondent was making arrangement for marriage with someone. After elopement, they got married in Dhargha near Manaparai and now, the victim girl is three months pregnant. The petitioner and the victim girl on certain terms confirmed their relationship and the victim girl not inclined to proceed with the case. In view of the same compromise, the 2nd respondent/defacto complainant and the victim girl, had filed the Joint Compromise Memo.

11.The elopement is on the compulsion of the victim girl and the petitioner is not to be blamed. Hence, the 2nd respondent and the victim girl submitted that they are not inclined to proceed with the case against the petitioner.

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

13.In a similar situation in the case of "Kumar @ Tennish Vs. The Inspector of Police, Latheri Police Station, Katpadi Taluk, Vellore and another in Cr1.O.p.No.16648 of 2018", this Court had quashed the proceedings on the compromise arrived between the accused and defacto complainant.

14.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.

15. Accordingly, this Criminal Original Petition stands allowed and as a sequel, the FIR in Crime No.1766 of 2020, on the file of the 1st respondent Police is hereby quashed and the Joint Compromise Memo filed by the victim girl and the 2nd respondent shall form part and parcel of this case. Consequently, the connected Miscellaneous Petition is closed.

* Herein enclosed the Xerox copy of the Memo of Compromise

Sd/-

Assistant Registrar (CS-VI)

//True Copy//

Sub Assistant Registrar

vv2

To

1.The Inspector of Police,
W35 All Women Police Station,
Tambaram.

2.The Public Prosecutor,
High Court, Madras.

+1cc to Mr.R.T.Vijaya Raghavan, Advocate SR. No.55265

Cr1.O.P.No.16805 of 2021

AJS (CO)
PR (06/12/2021)