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IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 25.11.2021

CORAM

THE HONOURABLE MR.JUSTICE M.NIRMAL KUMAR

Cr1.O.P.No.19294 of 2021

K.Suresh

...Petitioner

Vs.

1. The State represented by,
The Inspector of Police,
All Women Police Station,
Hosur,
Krishnagiri District.
Crime No.19 of 2019.

2. Muniraj

...Respondents

PRAYER: Criminal Original Petition is filed under Section 482 of the Code of Criminal Procedure, to call for the records relating to the charge sheet in Spl.S.C.No.2 of 2020 on the file of the Mahila Court, Krishnagiri and quash the same by allowing this Criminal original petition.

For Petitioner : Mr.J.Pradeep
For R1 : Mr.E.Raj Thilak,
Additional Public Prosecutor

ORDER

This Criminal Original Petition has been filed to quash the proceedings in Special S.C.No.2 of 2020, pending on the file of the Mahila Court, Krishnagiri.

2.The case of the prosecution is that the 2nd respondent is working as Labourer and, is residing at Koollu Village, Kudisadanapalli Post, Shoolagiri Taluk, Krishnagiri and he has one son and two daughters. In this case, the 2nd respondent's 2nd daughter is the victim girl, her date of birth is 15.05.2002 at the time of occurrence and she was studying 12 std in Government Higher Secondary School, Perigai. The petitioner/accused was a Driver in milk van and he was having contact with the victim girl when he driving the van from Perigai to Koollu village. On 23.02.2019, at about 07.00 p.m., the petitioner insisted the victim girl to come to his home to meet his mother, but she refused to it. Thereafter, the petitioner kidnapped the victim



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girl without her consent and had physical relationship in his friend's house at Lingapuram at about 09.00 p.m. Due to which, the victim girl got pregnant and the petitioner insisted the victim girl to abort her pregnancy. Since the victim girl ignored it, the petitioner refused to marry her and threatened her to do away. Sensing fear, the victim girl not disclosed the happenings to anyone for seven months, after that, she voluntarily informed the happenings to her parents. Hence, the 2nd respondent, father of the victim girl lodged a complaint to the 1st respondent Police on 26.10.2019 and a case in Crime No.19 of 2019 was registered, for offence under Sections 363, 366, 506 (i) and Section 5(1), 5(j)(ii) and 6 of the Protection of Children from Sexual Offences Act, 2012. On 23.11.2019, a male child was born to the victim girl. On completion of investigation, the 1st respondent Police filed the charge sheet before the learned Mahila Court, Krishnagiri and the same was taken on file as Special S.C.No.2 of 2020, listing 18 witnesses as LW1 to LW18 and documents.

3.The learned counsel for the petitioners submitted that the petitioner and the victim girl/daughter of the 2nd respondent were in love affair with each other prior to the occurrence. On coming to know about the same, the 2nd respondent objected her daughter not to keep any contact with the petitioner, resulting in, the victim girl and the petitioner eloped without the knowledge of their parents.

4.The learned counsel further submitted that the case is at the stage of trial, both the families now accepted the love affair of the petitioner and the victim girl and the marriage was solemnized after the victim girl attained the age of majority and now, they are happily leading their life.

5.The learned Additional Public Prosecutor appearing for the 1st respondent Police submitted that the petitioner/accused was a Driver in milk van and he was having contact with the victim girl when he was driving the van from Perigai to Koollu village. On 23.02.2019, at about 07.00 p.m., the petitioner insisted the victim girl to come to his home to meet his mother, but she refused to it. Thereafter, the petitioner kidnapped the victim girl without her consent and had physical relationship in his friend's house at Lingapuram at about 09.00 p.m. Due to which, the victim girl got pregnant and the petitioner insisted the victim girl to abort her pregnancy. Since the victim girl ignored the same, the petitioner refused to marry her and threatened her to do away. Sensing fear, the victim girl not disclosed the happenings to anyone for seven months, thereafter, she informed the happenings to her parents. The offence was committed by the petitioner when the victim girl was a minor. Hence, he opposed the quash petition.



6.This Court considered the rival submissions and perused the materials available on record and also the Joint Compromise Memo filed by the petitioner and the 2nd respondent.

7.Today, the petitioner, 2nd respondent and her daughter/victim girl all appeared before this Court. The victim girl confirmed her relationship with the petitioner and her commitment to get married. Further, she stated that she is staying with the petitioner family with the concurrence and approval of the 2nd respondent/her father. The relationship and the love affair between the petitioner and the victim girl is not denied. Since both the families accepted the love affair of the petitioner and the victim girl, they got married after the victim girl/3rd respondent attained majority.

8.It is seen that the victim girl forced the petitioner to take her away, since her father/2nd respondent was objected for their love affair. Having no option, the petitioner accompanied the victim girl and thereafter, the petitioner was secured by the 1st respondent and a case in Crime No.19 of 2019, for offence under Sections 363, 366, 506(i) and Section 5(1), 5(j)(ii) and 6 of the Protection of Children from Sexual Offences Act, 2012. On 23.11.2019, a male child born to them. On completion of investigation, the 1st respondent Police filed the charge sheet before the learned Mahila Court, Krishnagiri and the same was taken on file as Special S.C.No.2 of 2020, listing 18 witnesses as LW1 to LW18 and other documents. LW1 is the 2nd respondent; LW2 is the victim girl; LW3 to LW5 are hearsay witnesses; LW6 & LW7 are witnesses to the Observation Mahazar; LW8 & LW9 are witnesses to the confession statement; LW11 and LW15 are the Doctors who conducted medical examination on the victim girl and the petitioner respectively; LW16 & LW18 are the Police officials, who have taken part in the investigation and LW17 is the Judicial Magistrate No.I, Hosur, who recorded the statement of the victim girl under Section 161 Cr.P.C.

9.The case is at the stage of trial. By passage of time, both the families are accepted the love affair of the victim girl and the petitioner and conducted the marriage after the victim girl attained majority and they are now blessed with a male child and leading their matrimonial life happily. The victim girl and the child are taken by the petitioner. In order to substantiate the same, the learned counsel for the petitioner produced the copy of the Marriage Registration Certificate and photograph of the marriage. Further, the petitioner and the 2nd respondent filed the Joint Compromise Memo stating that the 2nd respondent is not interested to prosecute the petitioner in Special S.C.No.2 of 2020.



10. In this case, the elopement is on the compulsion of the victim girl. While being so, the 1st petitioner is not to be blamed.

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11. This Court in the case of "Sabari Vs. Inspector of Police reported in 2019(2) MLJ CrL.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.

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

13. 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.

14. Accordingly, this Criminal Original Petition stands allowed and as a sequel, the case in Special S.C.No.2 of of 2020, on the file of the Mahila Court, Krishnagiri is hereby quashed and the Joint Compromise Memo filed by the petitioner and the 2nd respondent shall form part and parcel of this case. Consequently, the connected Miscellaneous Petition is closed.

Sd/-
Assistant Registrar (CJ Conf.)

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Sub Assistant Registrar

vv2/vm

To

1. The Judge, Mahila Court,
Krishnagiri.
2. The Inspector of Police,
All Women Police Station,
Hosur,
Krishnagiri District.



3.The Public Prosecutor,
High Court, Madras.

+1cc to Mr.J.Pradeep, Advocate, S.R.No.61691

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BR(CO)
KKV/14/12/2021