



WEB COPY

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 30.11.2021

CORAM

THE HONOURABLE MR.JUSTICE M.NIRMAL KUMAR

Crl.O.P.No.22835 of 2021

Mukesh @ Murugan

...Petitioner

Vs.

1.The State represented by
The Inspector of Police,
W-20 All Women Police Station,
Saidapet, Chennai-600 015.
Crime No.7/2019.

2.M.Swetha Bhavani

...Respondents

PRAYER: Criminal Original Petition is filed under Section 482 of the Code of Criminal Procedure, to call for the records in Spl.S.C.No.45 of 2021 on the file of the Special Court for Exclusive Trial of Cases under POCSO Act, Chennai and quash the same by allowing this Criminal Original Petition.

For Petitioner : Mr.M.Mohamed Riyaz

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

For R2 : M/s.B.Girija

ORDER

This Criminal Original Petition has been filed to quash the proceedings in Special S.C.No.45 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, Chennai (trial Court).

2.The gist of the case is that the 2nd respondent is the victim girl, who was aged about 16 years at the time of occurrence. The father of the victim girl died five years before the occurrence and her mother is the mentally challenged person. At the time of occurrence, the victim girl was not



studying and she discontinued her studies five years before the occurrence. The petitioner is the friend of the victim girl's cousin. On the guise of seeing the victim girl's cousin, the petitioner used to meet the victim girl and have a touch with her. By and by, there was love affair between the petitioner and the victim girl. During the month of February 2017, when the victim girl was alone at home, the petitioner came to her house and had sexual intercourse without her consent and made promise that he would marry her. During the month of July 2019, the petitioner and the victim girl had gone to one resort near Palavakkam, Chennai and when the victim girl was changing the dress in a room in resort after taking bath, the petitioner had sexual intercourse without her consent, at that time, the victim girl was cried unable to bear pain. From the month of August 2019, the petitioner stopped to speak with the victim girl. When the victim girl asked the reason for the same, the petitioner informed the victim girl that he will not marry her and also threatened her not to disclose the happenings to anyone. Hence, a complaint was lodged by her before the 1st respondent Police on 07.12.2019, which was registered in Crime No.7 of 2019, for offence under Sections 376, 417, 420 and 506(1) of IPC and Section 4 of the Tamil Nadu Prohibition of Women Harassment Act, 2002.

3. On completion of investigation, the 1st respondent Police has filed the charge sheet before the trial Court and the same was taken on file as Special S.C.No.45 of 2021, for offence under Sections 376, 417, 420, 506(i) of IPC r/w Section 6 of the Protection of Children from Sexual Offence Act, 2012, listing 12 witnesses as LW1 to LW12 and documents.

4. 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. The case is at the stage of trial. By passage of time, the petitioner and the 2nd respondent resolved their issues and they are leading their life separately.

5. The learned Additional Public Prosecutor appearing for the 1st respondent Police submitted that during the month of February 2017, when the victim girl was alone at home, the petitioner came to her house and had sexual intercourse without her consent and made promise that he would marry her. During the month of July 2019, the petitioner and the victim girl had gone to one resort near Palavakkam, Chennai and when the victim girl was changing the dress in a room after taking bath, the petitioner had sexual intercourse without her consent, at that



time, the victim girl was cried unable to bear pain. From the month of August 2019, the petitioner stopped to speak with the victim girl. When the victim girl asked the reason for the same, the petitioner informed the victim girl that he will not marry her and also threatened her not to disclose the happenings to anyone. Hence, a complaint was lodged by her before the 1st respondent Police on 07.12.2019, which was registered in Crime No.7 of 2019, for offence under Sections 376, 417, 420 and 506(1) of IPC and Section 4 of the Tamil Nadu Prohibition of Women Harassment Act, 2002. On completion of investigation, the 1st respondent Police has filed the charge sheet before the trial Court and the same was taken on file as Special S.C.No.45 of 2021, for offence under Sections 376, 417, 420, 506(i) of IPC r/w Section 6 of the Protection of Children from Sexual Offence Act, 2012, listing 12 witnesses as LW1 to LW12 and documents.

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 and the victim girl appeared before this Court. The victim girl has confirmed the compromise with the petitioner and not denied the relationship and love affair with the petitioner. The petitioner and the victim girl have filed Joint Compromise Memo stating that the victim girl is not interested to prosecute the petitioner in Special S.C.No.45 of 2021.

8.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.

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 Cr1.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. Accordingly, this Criminal Original Petition stands allowed and as a sequel, the case in Special S.C.No.45 of 2021, on the file of the Special Court for Exclusive trial of Cases under the Protection of Children from Sexual Offences Act, 2012, Chennai is hereby quashed and the Joint Compromise Memo filed by the petitioner and the victim girl shall form part and parcel of this case.

(* Joint Memo Of Compromise Xerox Copies enclosed)

Sd/-
Assistant Registrar

//True Copy//

Sub Assistant Registrar

vv2/mpl
To

1.The Special Court for Exclusive trial of Cases
under the Protection of Children from Sexual Offences Act,
2012,
Chennai.

2.The Inspector of Police,
W-20 All Women Police Station,
Saidapet, Chennai-600 015.

3.The Public Prosecutor,
High Court, Madras.

+1 CC to M/s.B. Girija, Advocate sr 63067
+1 CC to Mr.M.Mohamed Riyaz, Advocate sr 63136.

CrI.O.P.No.22835 of 2021

SSU(CO)
SP(27/12/2021)