



BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

DATED : 06.12.2021

CORAM :

WEB COPY

THE HONOURABLE MR.JUSTICE G.R.SWAMINATHAN

Crl.O.P(MD)No.3546 of 2021
and
Crl.M.P. (MD)No.1971 of 2021

xxxxxxx

... Petitioner

Vs.

State rep by

1.The Inspector of Police,
All Women Police Station,
Madurai Town,
Madurai District.
(In Crime No.7 of 2019)

2.xxxxxxx

3.xxxxxxx

... Respondents

Prayer: This Criminal Original Petition is filed under Section 482 of Cr.P.C., to call for the records pursuant to the proceedings in Spl.S.C.No.8 of 2020 on the file of the District and Sessions (Mahila) Court (Special Court for the Exclusive Trial of Cases under POCSO Act), Madurai and quash the same.

For Petitioner : Mr.M.Iniyavan
For Respondents : Mr.A.Albert James,
Govt. Advocate (Crl. Side) for R1.
Mr.P.Manikandan for R2.

O R D E R

This criminal original petition has been filed to quash the impugned proceedings in Spl.S.C.No.8 of 2020 on the file of the learned District and Sessions (Mahila) Court (Special Court for the Exclusive Trial of Cases under POCSO Act), Madurai.

2.The learned counsel for the petitioner submitted that the case has now been transferred to the file of the Mahila Court, Madurai.



3.The victim as well as the victim's mother are present before this Court in person. They have been duly identified by Ms.P.Pandiammal, WHC 2016, attached to first respondent police station. The accused and the victim have got married each other on 10.09.2020 at Masjid-El-Taqwa Pallivasal, Kamatchipuram, Keela Santhai Peeti, Madurai District. A child has also been born on 17.11.2021. I am satisfied that the parties are living together and leading a matrimonial life.

4.I am conscious that the offences under POCSO Act are not compoundable. However, a learned judge of this Court, vide order dated 27.01.2021 in the decision reported in CDJ 2021 MHC 636 (Vijayalakshmi Vs. State rep. by the Inspector of Police) had held as follows:-

"19.The main issue that requires the consideration of this Court is as to whether this Court can quash the criminal proceedings involving non-compoundable offences pending against the second respondent. The Hon'ble Supreme Court in the case of Parbathbhai Aahir @ Parbathbhai Vs. State of Gujarat reported in 2017 9 SCC 641 and in the case of The State of Madhya Pradesh Vs. Dhruv Gurjar and another reported in (2019) 2 MLJ Crl 10 has given sufficient guidelines that must be taken into consideration by this Court while exercising its jurisdiction under Section 482 of Cr.P.C., to quash non-compoundable offences. One very important test that has been laid down is that the Court must necessarily examine if the crime in question is purely individual in nature or a crime against the society with overriding public interest. The Hon'ble Supreme Court has held that the offences against the society with overriding public interest even if it gets settled between the parties, cannot be quashed by this Court.

20. In the present case, the offences in question are purely individual / personal in nature. It involves the second petitioner and the second respondent and their respective families only. It involves the future of two young who are still in their early twenties. The second respondent is working as an auto driver to eke his livelihood. Quashing the proceedings, will not affect any overriding public interest in this case and it will in fact pave way for the second petitioner and the second respondent to settle down in their life and look for better future prospects. No useful purpose will be served in continuing with the criminal proceedings and keeping these proceedings will only swell the mental agony of the victim girl and her mother and not to forget the second respondent as well."

5.Respectfully adopting the very same approach, I quash the impugned proceedings in Spl.S.C.No.8 of 2020 on the file of the Madurai. The parties have also filed a joint memo of



compromise before this Court. The same is taken on record. The impugned proceedings stand quashed. This criminal original petition is allowed. Consequently, connected miscellaneous petition is closed.

Sd/-

Assistant Registrar (CS I)

// True Copy //

/ /2021

Sub Assistant Registrar(CS)

ias

Encl:- Photocopy of Compromise Memo attached.

Note : In view of the present lock down owing to COVID-19 pandemic, a web copy of the order may be utilized for official purposes, but, ensuring that the copy of the order that is presented is the correct copy, shall be the responsibility of the advocate/litigant concerned.

To:

- 1.The District and Sessions (Mahila) Court
(Special Court for the Exclusive Trial
of Cases under POCSO Act),
Madurai
- 2.The Inspector of Police,
All Women Police Station,
Madurai Town,
Madurai District.
- 3.The Additional Public Prosecutor,
Madurai Bench of Madras High Court,
Madurai.

Copy to:

The Judge,
Mahila Court,
Madurai.

+1 CC to M/s.M.INIYAVAN, Advocate (SR-37511[F] dated 06/12/2021)

Crl.O.P (MD) No.3546 of 2021
06.12.2021