



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.1249 of 2021

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... Petitioner

Vs.

State rep by

1. The Inspector of Police,
All Women Police Station,
Manamadurai,
Sivagangai District.
(In Crime No.10 of 2018)

2. xxxxxxxx

3. xxxxx

... Respondents

Prayer: This Criminal Original Petition is filed under Section 482 of Cr.P.C., to call for the records pertaining to the proceedings in Spl.S.C.No.60 of 2018 on the file of the Special Court for the Exclusive Trial of Cases under Protection of Child from Sexual Offences Act, 2012, Sivagangai, Sivagangai District and quash the same.

For Petitioner : Mr.T.Kumar

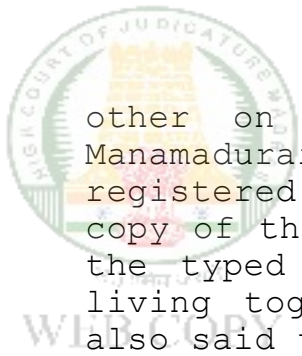
For Respondents : Mr.A.Albert James,
Govt. Advocate (Crl. Side) for R1.

Mr.V.M.Berdin Vinodh for R2.

O R D E R

This criminal original petition has been filed to quash the impugned proceedings in Spl.S.C.No.60 of 2018 on the file of the learned Special Court for Exclusive Trial of POCSO Act Cases, Sivagangai.

2.The victim as well as the victim's mother are present before this Court in person. They have been duly identified by Ms.Sasikala, Sub Inspector of Police attached to first respondent police station. The accused and the victim have got married each

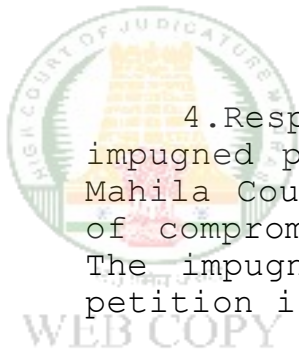


other on 13.11.2020 at Manamagan Illam, Nathapurakki Valasi, Manamadurai, Sivagangai District. The marriage has also been duly registered on the file of Sub Registrar Office, Manamadurai. A copy of the certificate of registration of marriage is enclosed in the typed set of papers. I am satisfied that the parties are living together and leading a matrimonial life. The victim is also said to have conceived.

3.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 Gujarath reported in 2017 9 SCC 641 and in the case of The State of Madhya Pradesh Vs. Dhruv Gurjar and another reproted 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."



4. Respectfully adopting the very same approach, I quash the impugned proceedings in Spl.S.C.No.80 of 2020 on the file of the Mahila Court, 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.

Sd/-

Assistant Registrar (CS-III)

// True Copy //

/ /2021

Sub Assistant Registrar(CS)

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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 Sessions Judge,
Special Court for the Exclusive Trial of Cases under Protection
of Child from Sexual Offences Act, 2012,
Sivagangai,
Sivagangai District.
2. The Inspector of Police,
All Women Police Station,
Manamadurai,
Sivagangai District.

+1 CC to M/s.T.KUMAR, Advocate (SR-37465[F] dated 06/12/2021)

Crl.O.P(MD)No.1249 of 2021

06.12.2021

USK (17.12.2021) 3P 4C