



BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

DATED: 23.11.2021

CORAM

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THE HONOURABLE MR.JUSTICE G.R.SWAMINATHAN

Crl.O.P.(MD)No.1687 of 2021

1. Ajith @ Ajithkumar
2. Murugan
3. Selvi @ Esakkiyammal

... Petitioners /
Accused Nos.1 to 3

Vs.

1. The State rep. By,
The Inspector of Police,
All Women police station,
Thoothukudi,
Thoothukudi District.
(Crime No.13 of 2016)

... 1st Respondent /
Complainant

2. Devi

... 2nd Respondent /
Defacto Complainant

Prayer: Criminal Original petition is filed under Section 482 of Cr.P.C, to quash the charge sheet filed by the first respondent police in Spl.S.C.No.150 of 2019 on the file of the Special Court for Exclusive Trial of Cases under POCSO Act, Thoothukudi.

For Petitioner	: MrN.Pragalathan
For R-1	: Mr.T.Senthil Kumar, Additional Public Prosecutor.
For R-2	: Mr.K.Muthurakkan

O R D E R

Heard the learned counsel on either side.

2. This criminal original petition has been filed for quashing the proceedings in Spl.S.C.No.150 of 2019 on the file of the Special Court for Exclusive Trial of Cases under POCSO Act, Thoothukudi.

3. The defacto complainant is present in person before this Court. <https://hcservices.ecourts.gov.in/hcservices/> she has been duly identified by Ms.M.Nivetha, WHC-644,



attached to the first respondent police station. The first petitioner and the victim have got married. The marriage photo has been enclosed in page No.36 of the typed set. A child, namely, Muthu Ananya was born on 28.11.2019. The Birth Certificate has been enclosed in the typed set. In the Birth Certificate, the first petitioner's name is figuring as the father of the child. Since they are living under one roof and together, it would be inequitable to continue the impugned proceedings.

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 Cr1 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 proceedings also. The parties have also filed a joint



memo of compromise before this Court. This criminal original petition is allowed.

Sd/-

Assistant Registrar (CS I)

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// True Copy //

/ /2021

Sub Assistant Registrar(CS)

PMU

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 Judge,
The Special Court for Exclusive Trial of Cases
under POCSO Act, Thoothukudi.
2. The Inspector of Police,
All Women police station,
Thoothukudi, Thoothukudi District.
3. The Additional Public Prosecutor,
Madurai Bench of Madras High Court, Madurai.

+1 CC to M/s.N. PRAGALATHAN, Advocate (SR-35694[F] dated 24/11/2021)

Cr1.O.P. (MD)No.1687 of 2021
23.11.2021

SB(03.12.2021) 3P 5C