



BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

DATED : 23.12.2021

CORAM :

THE HONOURABLE MR.JUSTICE G.R.SWAMINATHAN

Crl.O.P (MD) No.1961 of 2021

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... Petitioner/Sole Accused

Vs.

1.The State rep by
The Inspector of Police,
All Women Police Station,
Kuzhithurai,
Kanyakumari District.
(Crime No.33 of 2015)

... 1st Respondent / Complainant

2.xxxxxxxxxxx

... 2nd Respondent / Defacto
Complainant

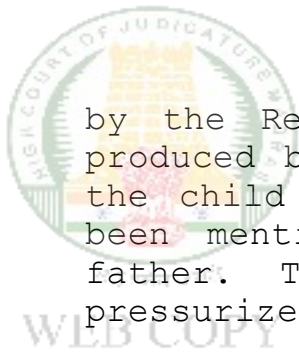
Prayer: This Criminal Original Petition is filed under Section 482 of Cr.P.C., to call for the records in connection with charge sheet in Special S.C.No.12 of 2016 pending on the file of the Special Court for the Exclusive Trial of POCSO Act Cases, Nagercoil, Kanyakumari District an quash the same in respect of the petitioner concerned.

For Petitioner : Mr.L.George Paul Anto
For Respondents : Mr.A.Albert James,
Govt. Advocate (Crl. Side) for R1.
Mr.G.Kannan for R2.

O R D E R

This criminal original petition has been filed for quashing the impugned proceedings in Spl.S.C.No.12 of 2016 on the file of the Special Court for the Exclusive Trial of POCSO Act Cases, Nagercoil, Kanyakumari District.

2.The defacto complainant is present before this Court in person. She has been duly identified by Ms.Babinasuki, WHC 2839, attached to first respondent police station. The petitioner is the sole accused in this case. Though the defacto complainant had implicated the petitioner herein, it turns out that she has eloped with one Vijay and that the petitioner has been falsely implicated. The defacto complainant is presently leading a peaceful matrimonial life with one Vijay and a child by name Vijay. Vijay has also been born and the birth certificate issued



by the Registrar of Birth and Deaths, Padmanamapuram has been produced before me. In the said birth certificate, the name of the child has been mentioned and defacto complainant's name has been mentioned as mother while J.Vijay has been mentioned as father. The defacto complainant categorically states that she was pressurized into giving a false complaint against the petitioner.

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 also. The parties have also filed a joint memo of compromise before this Court. The same is taken on record. The impugned proceedings stand quashed. The criminal



original petition is allowed. The memo of joint compromise shall form part of the order.

Sd/-

Assistant Registrar (CS I)

WEB COPY

// True Copy //

/ /2022

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:

(ENCL:Copy of Joint Compromise Memo)

- 1.The Judge, The Special Court for the Exclusive
Trial of POCSO Act Cases,
Nagercoil,
Kanyakumari District.
- 2.The Inspector of Police,
All Women Police Station,
Kuzhithurai,
Kanyakumari District.
- 3.The Additional Public Prosecutor,
Madurai Bench of Madras High Court,
Madurai.

+1 CC to M/s.L.GEORGE PAUL ANTO, Advocate (SR-40110[F] dated 23/12/2021)

**CrI.O.P(MD)No.1961 of 2021
23.12.2021**

NA(CO)
SB(11.01.2022) 3P 5C