



BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

DATED: 10.12.2021

CORAM

THE HONOURABLE MR. JUSTICE G.R. SWAMINATHAN

Crl.O.P.(MD)No.3456 of 2021

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Sankar

... Petitioner / Sole Accused

Vs.

1. State rep. By,
The Inspector of Police,
Kayathar police station,
Thoothukudi District.
(Crime No.423 of 2020)

... Respondent / Complainant

2. XXXX

... 2nd Respondent /
Defacto Complainant

Prayer: Criminal Original petition is filed under Section 482 of Cr.P.C, to call for the records relating to Special S.C. No.83 of 2020 pending on the file of the Special Court for POCSO Cases, Thoothukudi and quash the same as against the petitioner.

For Petitioner	: Mr.P.Jeyasankar
For R-1	: Mr.M.Sakthi Kumar, Government Advocate.
For R-2	: Mr.D.Pandya Rajan

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 Special S.C.No.83 of 2020 on the file of the Special Court for POCSO Cases, Thoothukudi.

3. The defacto complainant xxxx is present in person before me. He has been duly identified by Thiru.K.Mariappan, SSI, attached to the first respondent police station. It is seen that the petitioner as well as the victim are presently living a peaceful matrimonial life. The marriage between them was solemnised on 03.07.2020 and it has been duly registered. The marriage certificate has also been enclosed in the typed set of papers. The parties have filed a joint compromise memo. The defacto complainant states that he does not want to pursue the matter.

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 Gujarath 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 impugned proceedings also. This criminal original petition is allowed.

Sd/-

Assistant Registrar (CRL)

// 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.

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To:

1. The Special Court for POCSO Cases,
Thoothukudi.
2. The Inspector of Police,
Kayathar police station,
Thoothukudi District.
3. The Additional Public Prosecutor,
Madurai Bench of Madras High Court, Madurai.

+1 CC to M/s.P.JEYASANKAR, Advocate (SR-38238[F] dated 10/12/2021)

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KB(13.12.2021) 3P 5C