



BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

DATED : 01.12.2021

CORAM :

THE HONOURABLE MR.JUSTICE G.R.SWAMINATHAN

Crl.O.P(MD)No.3169 of 2021

Muniappan

... Petitioner/Accused (Single)

Vs.

1.The State represented by
The Inspector of Police,
Keelarajakularman Police Station,
Virudhunagar District.
(Crime No.374 of 2020)

... Respondent/Complainant

2. XXXXXXXX

3. SP

... Respondents

Prayer: This Criminal Original Petition is filed under Section 482 of Cr.P.C., to call for the entire records pertaining to the case in Crime No.374 of 2020 on the file of the Inspector of Police, Keelarajakularman Police Station, Virudhunagar District and quash the same.

For Petitioner : Mr.S.M.Anantha Murugan
For Respondents : Mr.A.Albert James,
Govt. Advocate (Crl. Side) for R1.

Mr.A.Kesavan for R2 & R3.

O R D E R

This criminal original petition has been filed to quash the impugned FIR in Crime No.374 of 2020 registered on the file of the first respondent.

2.Before filing of this petition, the final report was filed and cognizance was taken in Spl.S.C.No.73 of 2020 on the file of the Special Court for POCSO Act Cases, Srivilliputhur.

3.The defacto complainant and the victim are present before this Court in person. They have been duly identified by their counsel Mr.A.Kesavan (Enrolment No.271 of 2007). The petitioner married the victim girl. The parties are living together. A girl child by name Abi Shalini was born through the wedlock.

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 also. The parties have also filed a joint memo of compromise before this Court. The same is taken on record. The impugned proceedings in Spl.S.C.No.73 of 2020 on the file of the Special Court for POCSO Act Cases, Srivilliputhur are quashed. The criminal original petition is allowed. The Registry is directed to mark a copy of this order to the learned Special Court for POCSO Act Cases, Srivilliputhur.

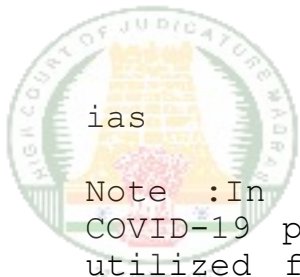
Sd/-

Assistant Registrar(AS)

// 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 Judge,
The Special Court for POCSO Act Cases,
Srivilliputhur, Virudhunagar District.

2.The Inspector of Police,
Keelarajakularman Police Station,
Virudhunagar District.

3.The Additional Public Prosecutor,
Madurai Bench of Madras High Court, Madurai.

+1 CC to M/s.S.M.ANANTHA MURUGAN, Advocate (SR-36842[F] dated 01/12/2021)

Crl.O.P (MD)No.3169 of 2021
01.12.2021

NSN(CO)
KB(13.12.2021) 3P 5C