



BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

DATED : 09.12.2021

CORAM :

THE HONOURABLE MR.JUSTICE G.R.SWAMINATHAN

Crl.O.P(MD)No.3544 of 2021

and

Crl.M.P. (MD)Nos.1966 and 1967 of 2021

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xxxxxxx

... Petitioner

Vs.

1.The Inspector of Police,
Thallakulam Police Station,
Madurai City.

(In Crime No.1557 of 2018)

... 1st Respondent / Complainant

2.xxxxxxx

... 2nd Respondent

Prayer: This Criminal Original Petition is filed under Section 482 of Cr.P.C., to call for the records in Spl.S.C.No.59 of 2019 on the file of the Special Court for POCSO Act, Madurai and quash the same as arbitrary and illegal.

For Petitioner : Mr.P.Gunasekaran

For Respondents : Mr.M.Sakthi Kumar,

Govt. Advocate (Crl. Side) for R1.

Mr.G.D.Manikandan for R2

O R D E R

This criminal original petition has been filed to quash the proceedings in Spl.S.C.No.59 of 2019 on the file of the Special Court for POCSO Act, Madurai. The case has now been transferred to Additional Mahila Court, Madurai.

2.The defacto complainant as well as the victim appeared before this Court on the last occasion and categorically stated that they do not want to pursue the matter. The victim has now got married to some other person and she is apprehensive that continuance of the impugned prosecution may cast shadow on her marital life. The petitioner has also filed an affidavit undertaking not to interfere in the life of the victim.

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:-

<https://hcservices.ecourts.gov.in/hcservices> *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 in Spl.S.C.No.59 of 2019 on the file of the Additional Mahila Court, Madurai are quashed. The criminal original petition is allowed. Consequently, connected miscellaneous petitions are closed.

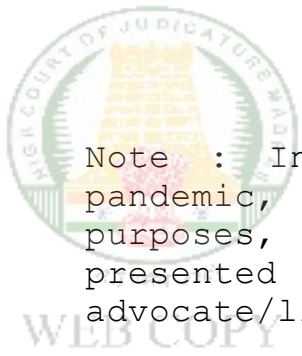
Sd/-

Assistant Registrar (WRITS)

// True Copy //

/ /2022

Sub Assistant Registrar (CS)



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 Special Judge, Special Court for POCSO Act,
Madurai.
- 2.The Inspector of Police,
Thallakulam Police Station,
Madurai City.
- 3.The Additional Public Prosecutor,
Madurai Bench of Madras High Court, Madurai.

Copy to:-

The Judge, Additional Mahlia Court,
Madurai.

Crl.O.P (MD) No.3544 of 2021
09.12.2021

PK(CO)
SB(21.01.2022) 3P 5C