



BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

DATED: 22.12.2021

CORAM:

THE HONOURABLE MR.JUSTICE G.R.SWAMINATHAN

Crl.O.P (MD) No.4399 of 2021

M.Sankar

... Petitioner / Sole Accused

Vs

1.State rep. by
The Inspector of Police,
Avaniyapuram Police Station,
Madurai.
(Crime No.1263 of 2020)

2.Nallathambi

3.xxxx

... Respondents

PRAYER: Petition filed under Section 482 Code of Criminal Procedure, to call for the records relating to the impugned charge sheet in Spl.S.C.No.116 of 2020 on the file of the Special Court for exclusive trial of cases under POCSO Act, Madurai and quash the same.

For Petitioner : Mr.K.Sivabalan
For R1 : Mr.A.Albert James
Government Advcoate (Crl.side)
For R2 & R3 : Mr.M.Sridhar

ORDER

This Criminal Original Petition has been filed to quash the proceedings in Spl.S.C.No.116 of 2020 on the file of the Special Court for exclusive trial of cases under POCSO Act, Madurai.

2. The victim has been duly identified by Mr.T.Tamilthiruvassagam, SSI of Police, attached to Avaniyapuram Police Station, Madurai. The petitioner and the victim got married on 12.02.2021 and the same has also been registered. The copy of the marriage certificate has also been filed before this Court. The defacto complainant is also present.

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 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."

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. This Criminal Original Petition is allowed.

Sd/-

Assistant Registrar (CS-III)

// True Copy //

/ /2022

Sub Assistant Registrar(CS)

rmi

Enclose Copy of Joint Compromise mem.

Note: Registry is directed to suppress the name of the victim while issuing the order copy. In view of the present lock down owing to

<https://hcservices.ecodrts.gov.in/hcservices/>



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

WEB COPY

- 1.The Judge,
Special Court for exclusive trial
of cases under POCSO Act, Madurai.
- 2.The Inspector of Police,
Avaniyapuram Police Station,
Madurai.
- 3.The Additional Public Prosecutor,
Madurai Bench of Madras High Court,
Madurai.

+1 CC to M/s.K.SIVABALAN, Advocate (SR-40070[F] dated 22/12/2021)

Crl.O.P(MD)No.4399 of 2021

DATED: 22.12.2021

RK(07/01/2021) 3P 5C