



BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

DATED : 21.12.2021

CORAM :

THE HONOURABLE MR.JUSTICE G.R.SWAMINATHAN

Crl.O.P (MD)No.10776 of 2021

and

Crl.M.P. (MD)No.5496 of 2021

WEB COPY

1.xxxxxxxxxx
2.Balasubramaniyan
3.Vijayalakshmi
4.Krishnaveni
5.Dhanasekaran
6.Gopalakrishnan
7.Muthukumar
8.Indumathi
9.Prem Kumar
10.Balasubramani
11.Pandeeswari
12.Kannan @ Muthukarupan ... Petitioners/Accused Nos 1 to 12
Vs.

1.The State rep by
The Inspector of Police,
All Women Police Station,
Madurai Town,
Madurai City,
Madurai District. ... 1st Respondent/Complainant
2.Rajeswari ... 2nd Respondent/
Defacto Complainant
3.xxxxxxx ... 3rd Respondent/
Defacto Complainant

Prayer: This Criminal Original Petition is filed under Section 482 of Cr.P.C., to call for the records pertaining to the charge sheet in Spl.S.C.No.74 of 2019 on the file of the learned District and Sessions Court (Mahila Madurai) Mahalir Neethimandram Madurai) on the file of the 1st respondent police and quash the same insofar as these petitioners are concerned.

For Petitioners : Mr.B.Arun
For Respondents : Mr.A.Albert James,
Govt. Advocate (Crl. Side) for R1.
Mr.V.Jai Ganesh for R3.

O R D E R

This criminal original petition has been filed to quash the impugned the proceedings in Spl.S.C.No.74 of 2019 pending on the file of the District and Sessions Court, Mahila Court, Madurai.

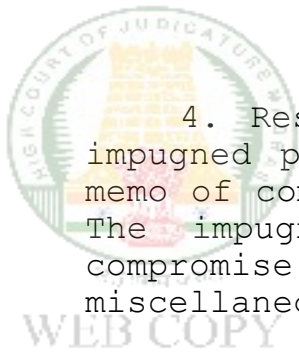


2.The defacto complainant and the victim are present before this Court in person. They have been duly identified by Ms.K.Amutha, WHC 1875, attached to first respondent police station. The victim has now attained majority. A girl child namely, Sivani was also born on 30.10.2020. A copy of the birth certificate has been produced before this Court. In the said birth certificate, the first petitioner is shown as the father and the victim is shown as the mother. The marriage between the first petitioner and the victim had taken place in Valliammai Marriage Hall, Munichalai, Madurai. The parties are living together under one roof.

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. The memo of joint compromise will form part of the order. Consequently, connected miscellaneous petition is closed.

Sd/-

Assistant Registrar (CS-III)

// True Copy //

/ /2022

Sub Assistant Registrar(CS)

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Note :1).The name of the first petitioner and the third respondent to be suppressed while issuing the order copy.

2).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.

ENCL: Xerox Copy of Joint Compromise Memo

To:

- 1.The District and Sessions Court,
Mahila Court, (POCSO)
Madurai.
- 2.The Inspector of Police,
All Women Police Station,
Madurai Town,
Madurai District.
- 3.The Additional Public Prosecutor,
Madurai Bench of Madras High Court, Madurai.

+1 CC to M/s.B.ARUN, Advocate (SR-39880[F] dated 21/12/2021)

Crl.O.P(MD)No.10776 of 2021
21.12.2021

TP (CO)

GC(07.01.2022) 3P 5C

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