



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.20160 of 2021

WEB COPY

A.Sivankalai

... Petitioner/ Sole Accused

Vs

1.The State Rep. by
The Inspector of Police,
All Women Police Station,
Thirumangalam,
Madurai District.
(In Crime No.17 of 2018)

... 1st Respondent / Complainant

2.G.Radha

... 2nd Respondent /
Defacto Complainant

PRAYER: Petition filed under Section 482 Code of Criminal Procedure, to call for the entire records connected with the case in Spl.S.C.No.158 of 2018 pending on the file of the District Mahila Court / Special Court for POCSO Act cases, Madurai and quash the same as illegal.

For Petitioner : Mr.S.Rajasekaran @ Ragavan
For R1 : Mr.A.Albert James
Government Advocate (Crl.side)
For R2 : Mr.P.Devarajan

ORDER

This Criminal Original Petition has been filed to quash the proceedings in Spl.S.C.No.158 of 2018 pending on the file of the District Mahila Court / Special Court for POCSO Act cases, Madurai.

2. The petitioner and the victim are present before this Court. The defacto complainant is also present. They have been duly identified by Mrs.Sankari WHC 2178, attached to All Women Police Station, Thirumangalam. The petitioner states that he married the victim as per the Hindu rites and customs in front of the family members. A child namely Rithika has been born. The petitioner's name is mentioned in the birth certificate as the father of the child. The original birth certificate has been issued by Nilaiyur Primary Health Centre, Thirupparankundram Taluk, Madurai District.

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/>



"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."

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. This Criminal Original Petition is allowed.

Sd/-

Assistant Registrar (As)

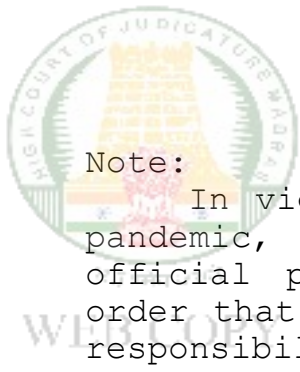
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/ /2022

Sub Assistant Registrar(CS)

rmi

Encl: Photocopy of Compromise Memo Attached.



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,
District Mahila Court /
Special Court for POCSO Act cases, Madurai.
- 2.The Inspector of Police,
All Women Police Station,
Thirumangalam,
Madurai District.
- 3.The Additional Public Prosecutor,
Madurai Bench of Madras High Court,
Madurai.

+1CC to M/S.S.Malaikani, Advocate (SR.No.40165)

Crl.O.P (MD) No.20160 of 2021

MGJ(10.01.2022) 3P 5C