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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.9497 of 2021
and
CRL.M.P.(MD)No.4843 of 2021

Mathan ... Petitioner / Sole Accused

Vs.

1. State through,
The Sub Inspector of Police,
All Women police station,
Colachel,
Kanyakumari District.
(Crime no.15 of 2021) ... 1st Respondent / Complainant

2. Pavithra ... 2nd Respondent/Defacto Complainant

Prayer: Criminal Original petition is filed under Section 482 of Cr.P.C, to call for the records in Crime No.15 of 2021 dated 07.04.2021 on the file of the first respondent and quash the same on the ground of compromise.

For Petitioner : Mr.V.Kathirvelu, Senior Counsel,
for Mr.K.Prabhu.

For R-1 : Mr.A.Albert James,

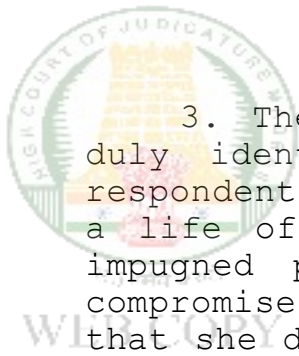
For R-2 : Government Advocate (Crl.Side)
Ms.S.Senthil Sankaranatha Kumar

* * *

O R D E R

Heard the learned counsel on either side.

2. This criminal original petition has been filed for quashing the First Information Report in Crime No.15 of 2021 registered on the file of the first respondent.



3. The victim is present in person before me. She has been duly identified by Ms.Yesodha, WHC-628 attached to the first respondent police station. The victim states that she wants to lead a life of her own and she apprehends that the pendency of the impugned prosecution may cast a shadow on her life. A joint compromise memo has also been filed. The defacto complainant states that she does not want to pursue the matter. If I refuse to quash the impugned First Information Report and permit the prosecution to continue, the defacto complainant is likely to turn hostile and chances of conviction are rather bleak. It would be a waste of judicial time.

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 Gujarath reported in 2017 9 SCC 641 and in the case of The State of Madhya Pradesh Vs. Dhruv Gurjar and another reproted 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

https://hcservices.mca.gov.in/hcservices/ to forget the second respondent as well."



5. Respectfully adopting the very same approach, I quash the impugned First Information Report. This criminal original petition is allowed. Consequently, connected miscellaneous petition is closed.

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Sd/-

Assistant Registrar (CS-II)

// True Copy //

/ /2021

Sub Assistant Registrar(CS)

PMU

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 Sub Inspector of Police,
All Women police station,
Colachel,
Kanyakumari District.
2. The Additional Public Prosecutor,
Madurai Bench of Madras High Court, Madurai.

+1 CC to M/s.K.PRABHU, Advocate (SR-37075[F] dated 02/12/2021)

Cr1.O.P. (MD)No.9497 of 2021

01.12.2021

USK (15.12.2021) 3P 4C