



BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

DATED: 17.11.2021

CORAM:

THE HONOURABLE MR.JUSTICE G.R.SWAMINATHAN

Crl.O.P.(MD)No.8381 of 2021

WEB COPY

Sundar @ Sundaram

... Petitioner/Sole Accused

vs.

1. The Inspector of Police,
All Women Police Station,
Thiruverampur,
Trichy District.
(Crime No.9 of 2017)

... Respondent/Complainant

2. -----

... 2nd Respondent/
Defacto Complainant

PRAYER : Criminal Original Petition filed under Section 482 Cr.P.C, to call for the records for the charge sheet in Spl.S.C.No.70 of 2020 pending on the file of the learned Mahila Judge, Trichirappalli and quash the same.

For Petitioner	: Mr.G.Karuppasamy Pandiyan
For Respondents	: Mr.M.Sakthi Kumar
	Government Advocate Crl.side for R1
	Mr.M.Murugesan for R2

O R D E R

This Criminal Original Petition has been filed for quashing the proceedings in Spl.S.C.No.70 of 2020 on the file of the Mahila Court, Trichirappalli.

2. The petitioner is facing trial for the offences under Sections 294(b), 506(1), 450, 366 IPC and Sections 5(1) and 6 of Protection of Children from Sexual Offences (POCSO) Act, 2012.

3. The defacto complainant is present in person before me. She has been duly identified by D.Pradeepa, Head Constable attached to Thiruverambur All Women Police Station. The defacto complainant got married and is leading a peaceful life. The pendency of the impugned prosecution is affecting the peaceful life of the defacto complainant. Therefore, she has no objection for quashing the impugned proceedings.

4. The learned counsel appearing for the petitioner drew my

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attention to the order **dated 28.02.2020 in Crl.O.P. (MD)No.3463 of 2020** and the decision reported in **(2021) 2 CTC 191 (Vijayalakshmi and others vs. State and others)**. It was held in the latter decision 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 Gujrat, reported in 2017 9 SCC 641 and in 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 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 2nd Petitioner and the 2nd Respondent and their respective families only. It involves the future of two young persons 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 2nd Petitioner and the 2nd 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 pending will only swell the mental agony of the victim girl and her mother and not to forget the 2nd Respondent as well.

21. In view of the above, this Court is inclined to quash the criminal proceedings in Special S.C.No.24 of 2018 on the file of the learned Sessions Judge, Mahila Court (Fast Track Mahila Court) Erode in exercise of its jurisdiction under Section 482 of the Criminal Procedure Code, 1973. Accordingly, the same is quashed and this Criminal Original Petition is allowed. Consequently, connected



5. The facts of the case are similar. When the defacto complainant herself does not want to pursue the complaint, the possibility of conviction is also bleak. She will turn hostile during trial. Taking into account the overall facts and circumstances and in the interest of justice, the impugned proceedings are quashed and accordingly, this Criminal Original Petition is allowed.

Sd/-

Assistant Registrar (P&A)

// True Copy //

/ /2021

Sub Assistant Registrar(CS)

csm/mga

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, Mahila Court, Trichirappalli.

2.The Inspector of Police,
All Women Police Station,
Thiruverampur,
Trichy District.

3.The Additional Public Prosecutor,
Madurai Bench of Madras High Court,
Madurai.

+1 CC to M/s.G. KARUPPASAMY PANDIAN, Advocate (SR-35113[F] dated 19/11/2021)

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SE(CO)
KB(02.12.2021) 3P 5C