



BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

DATED: 29.09.2021

CORAM:

THE HON'BLE MR JUSTICE G.ILANGOVAN

Crl.O.P.(MD)No.11556 of 2021

and

Crl.MP(MD)No.5889 of 2021

Bharathiyar : Petitioner/Petitioner/Accused No.1
Vs.

State rep. By
The Inspector of Police,
All Womens Police Station (AWPS),
Kulithalai,
Karur District. : Respondent/Respondent/
(Crime No.9 of 2019) Complainant

Prayer: Criminal Original Petition is filed under Section 482 Cr.P.C., to set aside the order, dated 28.02.2020 made in Crl.M.P No.58 of 2020 in Spl. SC No.6 of 2019 on the file of the Additional Sessions Judge (FTMC), Karur.

For Petitioner : Mr.S.S.Sundara Pandian
For Respondent : Mr.R.Meenakshi Sundaram
Additional Public Prosecutor

O R D E R

This petition is filed to set aside the order, dated 28.02.2020 passed by the Additional Sessions Judge (FTMC), Karur, in Crl.M.P No.58 of 2020 in Spl. SC No.06 of 2019.

2.The petitioner filed a petition for recalling PW1 to PW12 for the purpose of further cross examination. The said petition came to be dismissed by the trial court, on 28.02.2020. Challenging the same, this petition has been filed by the petitioner.

3.The petitioner is facing the charge under section 5(L) and 6 of POCSO Act. The learned counsel appearing for the petitioner, at the time of argument would submit that now the matter has been compromised between the parties and only for the purpose of elucidating the above facts, petition has been filed for the purpose of cross examining the witnesses.

4.Heard both sides. The complete records have been called for from the trial court. Perusal of the records of the trial court shows that all the witnesses have been cross examined in full and the matter has been posted for the defence side evidence. At this stage, this petition came to be filed. In this petition, no ground has been mentioned by the petitioner for recalling the witnesses. But only at the time of argument before this court, the above said



fact has been submitted.

5.The learned counsel appearing for the petitioner would rely upon the similar order passed by this court in Crl.O.P(MD)No.5911 of 2021, dated 25.03.2021 (Chinnadurai and 3 others Vs. The State rep. by the Station House Officer, Thittakudi Police Station, Cuddalore) and in Crl.OP(MD)No.7439 of 2021, dated 08.06.2021 (Mr.Sivanandhan Vs. State represented by All Women Police Station, Tirupattur). But however, I am of the considered view that the offence under POCSO Act are not amendable for compromise. Neither the victim nor the parents of the victim are entitled to make compromise of such an offence. The offences under POCSO Act are beyond the scope of compromise and such practise also is not approved by various High Courts as well as even by the Hon'ble Supreme Court. Such a compromise cannot also be entertained in similarly placed matters. So I am of the considered view that the ground relied upon by the petitioner for the purpose of cross examining the witnesses is out of place and cannot be entertained.

6.Therefore, I find no merit in this petition and accordingly, this petition is **dismissed**. Consequently, connected Miscellaneous Petition is closed.

Sd/-

Assistant Registrar (A.D.II)

// True Copy //

/ /2021

Sub Assistant Registrar(CS)

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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 Additional Sessions Judge (FTMC), Karur.

2.The Inspector of Police,
All Women Police Station (AWPS),
Kulithalai, Karur District.

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

**Cr1.OP(MD)No.11556 of 2021
29.09.2021**