



BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

DATED : 22.11.2021

CORAM:

THE HONOURABLE MR.JUSTICE G.R.SWAMINATHAN

Crl.O.P.(MD)No.18212 of 2021

WEB COPY

Ponmalai

... Petitioner/Sole Accused

vs.

State rep by

1.The Inspector of Police,
All Woman Police Station,
Usilampatti,
In Cr.No.6/2020.
Madurai District.

... 1st Respondent/Complainant

2.xxxxxx

... 2nd Respondent/Defacto complainant

PRAYER : Criminal Original Petition filed under Section 482 Cr.P.C., to call for the records relating to the charge sheet in Spl.S.C.No.20 of 2021 on the file of the Special Court for exclusive of cases under POCSO Act, Madurai and quash the same against the petitioner's concerned.

For Petitioner	: Mr.M.Subash Babu
For R1	: Mr.M.Sakthikumar Government Advocate
For R2	: Mr.K.Ganesan

O R D E R

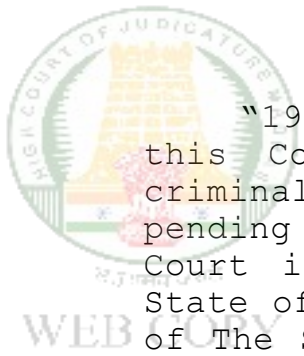
This Criminal Original Petition has been filed to quash the proceedings in Spl.S.C.No.20 of 2021 on the file of the Special Court for Exclusive Cases under POCO Act, Madurai.

2. The victim has been duly identified by Ms.P.Raja Lakshmi WPC-612 attached to All Women Police Station, Usilampatti, Madurai. The complaint was given by none other than the victim herself. She was then aged about 17 years. It is confirmed by the prosecution that the victim was born in the year 2003 and that she has now attained majority. The victim now got married and has presently settled down in Chennai.

3. The petitioner gives an undertaking before this Court that he will completely stay away from the victim and not interfere with her present life.

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:-

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"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 Cr1 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."

5. 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.

6. This Criminal Original Petition is allowed.

Sd/-

Assistant Registrar (CO)

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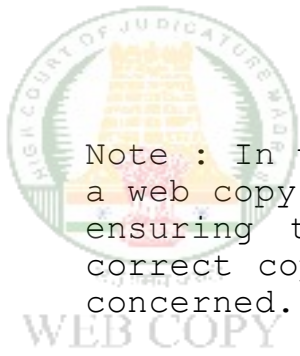
/ /2021

Sub Assistant Registrar (CS)

rmi

(*) Enclosed herewith The Joint Compromise Memo

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



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 Special Court for exclusive of cases under POCSO Act,
Madurai.

2.The Inspector of Police,
All Woman Police Station,
Usilampatti,
Madurai District.

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

+1 CC to M/s.M.SUBASH BABU, Advocate (SR-35390[F] dated 22/11/2021)

Crl.O.P.(MD)No.18212 of 2021
22.11.2021

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RS (01.12.2021) 3P 5C