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Cr1.O.P.(MD)No.14351 of 2021

BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

DATED: 06.12.2021

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THE HONOURABLE MR.JUSTICE G.R.SWAMINATHAN

Cr1.O.P.(MD)No.14351 of 2021 and
CRL.M.P.(MD)Nos.7515 & 7518 of 2021

Flint S.Kanit ... Petitioner / Sole Accused
Vs.

State rep. By,
1. The Inspector of Police,
All Women police station,
Colachel,
Kanyakumari District.
(Crime No.27 of 2020) ... Respondent / Complainant

2. xx ... Respondent/Defacto Complainant

Prayer: Criminal Original petition is filed under Section 482 of Cr.P.C, to call for the records pertaining to the case in Spl.S.C.No.78 of 2020 on the file of the Special Court for exclusive trial of cases under the POCSO Act, Nagercoil, Kanyakumari District and quash the same.

For Petitioner : Mr.J.Vishnu

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

For R-2 : Mr.B.Michael Sebastin

O R D E R

Heard the learned counsel on either side.

2. This criminal original petition has been filed for quashing the proceedings in Spl.S.C.No.78 of 2020 on the file of the Special Court for Exclusive Trial of Cases under the POCSO Act, Nagercoil, Kanyakumari District.



3. The petitioner is figuring as the sole accused. It is seen that the petitioner and the victim subsequently got married on 09.09.2021. The marriage certificate has also been enclosed in the typed set of papers. The defacto complainant states that he does not want to pursue the matter. The parties have been duly identified by Ms.V.Amutha, attached to the first respondent police station.

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 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 CrI 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. This criminal original petition is allowed. Consequently, connected miscellaneous petitions are closed.

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Sd/-

Assistant Registrar (CS-III)

// 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 Special Judge for exclusive trial of cases
under the POCSO Act,
Nagercoil, Kanyakumari District.
2. The Inspector of Police,
All Women police station,
Colachel, Kanyakumari District.
3. The Additional Public Prosecutor,
Madurai Bench of Madras High Court, Madurai.

+1 CC to M/s.B.MICHEAL SEBASTIN, Advocate (SR-37640[F] dated 07/12/2021)