



BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

DATED: 08.12.2021

CORAM:

THE HONOURABLE MR. JUSTICE G.R. SWAMINATHAN

Crl.O.P (MD)No.18815 of 2021

1.K.Sundhar

2.M.Karuppaiah

3.Uma

... Petitioners / Accused Nos.1 to 3

Vs

1.The Inspector of Police,
D-3, Sellur Police Station,
Madurai City.
(Crime No.474 of 2019)

... 1st Respondent / Complainant

2.xxxx

... 2nd Respondent / Defacto complainant

PRAYER: Petition filed under Section 482 Code of Criminal Procedure, to call for the records pertaining to the impugned charge sheet in Spl.S.C.No.134 of 2019 on the file of the Mahila Court (Special Court for exclusively trial of POCSO Act) Cases, Madurai and quash the same.

For Petitioners	: Mr.C.Gangai Amaran
For R1	: Mr.M.Sakthi Kumar
	Government Advocate (Crl.Side)
For R2	: Mr.K.Raghul Priyan

ORDER

This Criminal Original Petition has been filed for quashing the proceedings in Spl.S.C.No.134 of 2019 on the file of the Mahila Court (Special Court for exclusively trial of POCSO Act), cases, Madurai.

2. It is seen that the victim had attained majority. The prime accused and the victim have already got married to each other. Two children namely Eshanika and Eshan Karthick have also been born. The identity of the parties has also been confirmed by Thiru.Murali Kannan, SSI of Police attached to Sellur Police Station, Madurai City.

3. Since the parties are living together and two children have also been born, permitting the prosecution to proceed to its logical conclusion will spell ruin to every one.

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 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. The parties have also filed a joint memo of compromise before this Court. The same is taken on record. The impugned proceedings stand quashed. This Criminal Original Petition is allowed.

Sd/-

Assistant Registrar (CO)

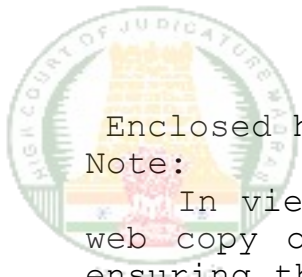
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/ /2021

Sub Assistant Registrar(CS)

Rmi

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



Enclosed herewith Copy of the Joint Compromise Memo

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 Inspector of Police,
D-3, Sellur Police Station,
Madurai City.
- 2.The Additional Public Prosecutor,
Madurai Bench of Madras High Court,
Madurai.

Copy to:

The Mahila Court (Special Court for exclusively
trial of POCSO Act) Cases,
Madurai

Crl.O.P (MD)No.18815 of 2021
08.12.2021

RD(22.12.2021) 3P 4C