



BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

DATED : 26.11.2021

CORAM :

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THE HONOURABLE MR.JUSTICE G.R.SWAMINATHAN

Crl.O.P(MD)No.18230 of 2021

Prasath

... Petitioner

Vs.

1.State represented by
The Inspector of Police,
Othakadai Police Station,
Madurai District.
(Crime No.106 of 2019).

2.Kavitha

3.xxxxxx ... Respondents
(The name of the 3rd Respondent to be suppressed
While issuing the Order copy)

Prayer: This Criminal Original Petition is filed under Section 482 of Cr.P.C., to call for the records pertaining to the charge sheet in Special S.C.No.101 of 2019 on the file of the Mahila Court, Madurai against Crime No.106 of 2019 on the file of the 1st respondent and quash the same.

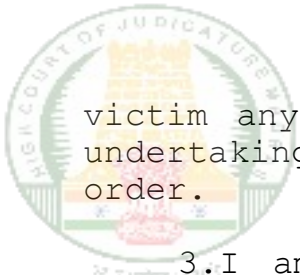
For Petitioner : Mr.V.Malaiyendran
For Respondents : Mr.M.Sakthi Kumar,
Govt. Advocate (Crl. Side) for R1.

M/s.P.Banuprasath for R2 and R3

O R D E R

This criminal original petition has been filed to quash the proceedings in Spl.S.C.No.101 of 2019 on the file of the Mahila Court, Madurai.

2.The defacto complainant as well as the victim are present before this Court in person. They have been duly identified by Mr.S.Singaraj, Sub Inspector of Police, attached to first respondent police station. The victim has got married to some other person. The mother of the victim as well as victim are apprehensive that if the impugned proceedings are allowed to continue, it will cast a shadow on the matrimonial life of the victim. The petitioner gives an undertaking that he will not interfere with the life of the



victim any more in future. I made it clear to him that if this undertaking is breached, this Court will not hesitate to recall this order.

3.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 reproted 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 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."

4.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.



5.This criminal original petition is allowed.

Sd/-

Assistant Registrar (W)

// True Copy //

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/ /2021
Sub Assistant Registrar(CS)

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Encl:-Photocopy of Joint compromise memo attached.

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,
Madurai.
- 2.The Inspector of Police,
Othakadai Police Station,
Madurai District.
- 3.The Additional Public Prosecutor,
Madurai Bench of Madras High Court,
Madurai.

+2 CC to M/s.V.MALAIYENDIRAN, Advocate (SR-36435[F] dated 29/11/2021)

Crl.O.P(MD)No.18230 of 2021
26.11.2021

MGJ(04.12.2021) 3P 6C