



BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

DATED : 26.11.2021

CORAM :

**THE HONOURABLE MR.JUSTICE G.R.SWAMINATHAN**

Crl.O.P (MD) No.18638 of 2021

Chellaiah

... Petitioner/Sole Accused

Vs.

1.State through

The Inspector of Police,  
Kottampatti Police Station,  
Madurai District.  
(Crime No.145 of 2018)

... Respondent/Complainant

2.Parvathi

... Respondent/Defacto Complainant

3.xxxxxxxx

... Respondent/Victim

**Prayer:** This Criminal Original Petition is filed under Section 482 of Cr.P.C., to call for the proceedings pertaining to the proceedings in Spl.S.C.No.118 of 2020 pending adjudication on the file of the learned Special Court for Exclusive Trial of Cases under POCSO Act, Madurai and quash the same.

For Petitioners : Mr.R.Aravind Raj  
For Respondents : Mr.T.Senthil Kumar,  
Addl. Public Prosecutor for R1.  
Mr.S.Vijayakumar for R2 & R3.

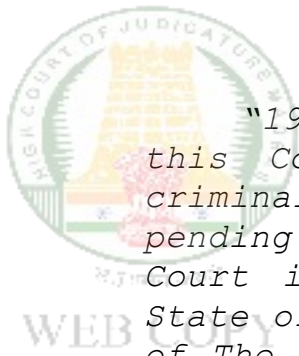
### **O R D E R**

This criminal original petition has been filed to quash the impugned proceedings in Spl.S.C.No.118 of 2020 on the file of the learned Special Court for Exclusive Trial of Cases under POCSO Act, Madurai,

2.The victim is present before this Court. It is seen that the petitioner and the victim subsequently got married on 24.03.2018. A girl child was born through the wedlock. The birth certificate of the girl child has been enclosed in the typed set of papers. The petitioner's name has been shown as the father of the child. The parties are living together. In these circumstances, permitting the prosecution to continue will definitely cause ruin to both.

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:-

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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 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 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."

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 (AE)

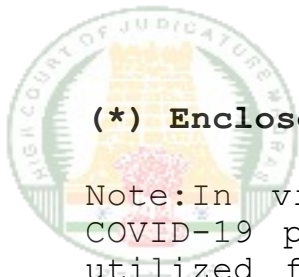
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/ /2021

Sub Assistant Registrar(CS)

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



**(\*) Enclosed herewith 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 Special Court for Exclusive Trial of Cases under POCSO Act,  
Madurai.
  - 2.The Inspector of Police,  
Kottampatti Police Station,  
Madurai District.
  - 3.The Additional Public Prosecutor,  
Madurai Bench of Madras High Court,  
Madurai.
- +1 CC to M/s.R.ARAVINDRAJ, Advocate (SR-36126[F] dated 26/11/2021)

**CrI.O.P(MD)No.18638 of 2021**  
**26.11.2021**

**RS (08.12.2021) 3P 5C**