



BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

DATED: 15.12.2021

CORAM:

THE HONOURABLE MR.JUSTICE G.R.SWAMINATHAN

Crl OP(MD)No.19278 of 2021

and

Crl MP(MD)No.10760 of 2021

WEB COPY

1.Ponnusamy

2.Krishnasamy

3.Rajeshwari

4.Jeyamani

... Petitioners/Accused Nos.1 to 4

vs.

1.State, rep.by

The Inspector of Police,
All Women Police Station,
Manapparai, Trichy District.
(Crime No.147 of 2021)

... 1st respondent/complainant

2.Kadaiyammal

... 2nd respondent/defacto-complainant

PRAYER: Criminal Original Petition petition filed under Section 482 of Cr.Pc, to call for the records relating to the FIR in Crime No.147 of 2021 dated 25.04.2021 on the file of the first respondent police and quash the same as illegal insofar as the petitioners are concerned.

For Petitioners : Mr.M.Prabhu

For Respondents : Mr.E.Antony Sahaya Prabahar

Additional Public Prosecutor

ORDER

This criminal original petition has been filed to quash the impugned FIR in Crime No.147 of 2021 for the offences under Section 366(A) @ 366(A) IPC and Section 6, 5(L) of the POCSO Act @ 366, 3 (a), 4 r/w. 5(I), 6 of the POCSO Act. The victim has since attained majority. The prime accused and the victim girl have married each other. I am of the view that the continuation of the impugned prosecution is not warranted.

2.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."

3. Respectfully adopting the very same approach, I quash the impugned proceedings. The Criminal Original Petition stands allowed. Connected miscellaneous petition is closed.

Sd/-

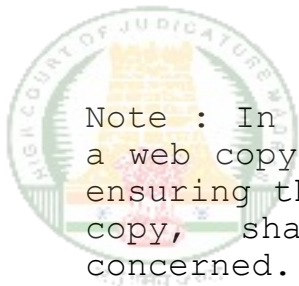
Assistant Registrar (CS-I)

// True Copy //

/ /2022

Sub Assistant Registrar (CS)

skm



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.

WEB COPY

To

1.The Inspector of Police,
All Women Police Station,
Manapparai, Trichy District.

2.The Additional Public Prosecutore,
Madurai Bench of Madras High Court, Madurai.

+1 CC to M/s.M.PRABU, Advocate (SR-39087[F] dated 16/12/2021)

Crl OP(MD)No.19278 of 2021 and

Crl MP(MD)No.10760 of 2021

15.12.2021

_RD(02.02.2022) 3P 4C