



BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

DATED: 14.12.2021

CORAM:

THE HONOURABLE MR.JUSTICE G.R.SWAMINATHAN

Crl.O.P.(MD)No.19863 of 2021

WEB COPY

Sanju

... Petitione/Sole Accused

vs.

State rep by

1.The Inspector of Police,
All Woman Police Station,
Colachel,
Kanyakumari District.
Crime No.15 of 2020

... 1st Respondent/
Complainant

2. xxxxx

...2nd Respondent /
Defacto complainant

PRAYER : Criminal Original Petition filed under Section 482 Cr.P.C., to call for the records relating to the charge sheet in Crl.M.P.No.118 of 2020 on the file of the Juvenile Justice Board, Judicial Magistrate No.I, Nagercoil, Kanyakumari District and quash the same.

For Petitioner : Mr.S.J.Chakkaravarthy

For R1 : Mr.A.Albert James,
Government Advocate. (Criminal Side)

For R2 : Mr.C.Gunasekaran

O R D E R

This Criminal Original Petition has been filed to quash the proceedings in Crl.M.P.No.118 of 2020 on the file of the Juvenile Justice Board, Judicial Magistrate No.I, Nagercoil, Kanyakumari District

2. The petitioner is the sole accused. During the relevant time, he was a juvenile. Therefore, the impugned prosecution is pending before the Juvenile Justice Board. The victim is present before me. She has been duly identified by Ms.V.Amutha, W.Gr-I 254 attached to All Woman Police Station, Colachel.

3. It is seen that the petitioner and the victim have got married to each other. The victim calls upon this Court to quash the impugned proceedings.



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 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.”

5. Respectfully adopting the very same approach, I quash the impugned proceedings also. This criminal original petition is allowed.

Sd/-

Assistant Registrar (AD-II)

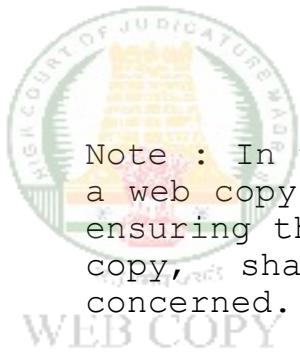
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/ /2022

Sub Assistant Registrar(CS)

PMU

<https://hcservices.courts.gov.in/hcservices/> 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 Juvenile Justice Board, Judicial Magistrate No.I,
Nagercoil, Kanyakumari District.
2. The Inspector of Police,
All Woman Police Station,
Colachel,
Kanyakumari District.
- 3.The Additional Public Prosecutor,
Madurai Bench of Madras High Court,
Madurai.

+1 CC to M/s.S.J.CHAKKARAVARTHY, Advocate (SR-38658[F] dated
14/12/2021)

Crl.O.P.(MD)No.18212 of 2021
14.12.2021

RK(07/01/2021) 3P 5C