



WEB COPY

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 31.01.2022

CORAM:

THE HON'BLE MR.JUSTICE M.NIRMAL KUMAR

CRL.O.P.NO.1698 OF 2022

S.Durairaj

...Petitioner / Accused

Versus

1.State Rep by

The Inspector of Police,
Puduchatram Police Station,
Namakkal.

...1st Respondent / Complainant

(Crime No.682 of 2021)

2.M.Indhirani

...2nd Respondent / Defacto Complainant

3.Sivagami

...3rd Respondents / Victim Girl's Mother

PRAYER : Criminal Original Petition filed under Section 482 of the Code of Criminal Procedure, 1973, to call for the records in Crime No.682 of 2021, on the file of the 1st respondent and quash the same.

For Petitioner : Mr.W.Camyles Gandhi

For Respondents : Mr.E.Raj Thilak
Additional Public Prosecutor for R1

O R D E R

This petition has been filed to call for the records in Crime No.682 of 2021, on the file of the 1st respondent and quash the same.

2. The case of the prosecution is that on 18.03.2020 at about 3.00 am, the petitioner married the victim girl, who was aged about 16 years, at Puthur Eswaran Temple. Subsequent to the marriage, the victim girl became 8 months pregnant. Having acquired knowledge about the said factum, the second respondent herein lodged a complaint against the petitioner. The first respondent Police registered a case in Crime No.682 of 2021 for the offence under Section 366 of IPC, Section 9 of Child Marriage Act, 2006 & 5(1), 5(j) (ii) of POCSO Act, 2012.



3. The learned counsel for the petitioner submitted that the petitioner and the victim girl were in love with each other and she married him without any compulsion and now blessed with a male child. Now, they are leading a happy life except the pending Criminal Proceedings in Crime No.682 of 2021. The victim girl filed an affidavit dated 10.01.2022 to that effect and seeks permission to quash the proceedings.

4. The learned Additional Public Prosecutor appearing for the first respondent submitted that the victim minor girl eloped from her house, married the petitioner herein. On the complaint of the second respondent, FIR came to be registered and the petitioner was arrested and remanded to judicial custody on 18.11.2021. Thereafter, this Court by order dated, 15.12.2021, granted bail to the the petitioner. Now, they are leading a peaceful life.

5. Today, the petitioner, the victim girl and her mother and the child are present before this Court and they confirmed the marriage of the petitioner with the victim girl and they are leading a happy life. The victim girl filed an affidavit to that effect.

6. Under normal circumstances, this Court would not quash the FIR under POCSO Act, however, on a reading of FIR in this case, it is alleged by the de-facto complainant that the victim girl, who was aged about 16 years at the time of incident, had ran away with the accused. Thereafter, the victim girl married the petitioner on 18.03.2020 and also delivered a male child. Hence, the victim girl does not want to proceed the case further and requested to quash the FIR. In this regard, she filed an affidavit dated 10.01.2022.

7. In similar circumstances, this Court in the case of "Sabari Vs. Inspector of Police reported in 2019(2) MLJ Cr1.110", had observed that during the adolescent age, boys and girls got involved in a relationship, such relationship would be the result of mutual innocence and biological attraction, which cannot be construed as an unnatural one or alien to between relationship of opposite sexes.

8. In a similar situation in the case of "Kumar @ Tennish Vs. The Inspector of Police, Latheri Police Station, Katpadi Taluk, Vellore and another in Cr1.O.p.No.16648 of 2018", this Court had quashed the proceedings on the compromise arrived between the accused and defacto complainant.

9. In view of the above, this Court finds that continuation of the proceedings will serve no purpose and it is only be an abuse of process of law.



10. In the result, this Criminal Original Petition stands allowed and as a sequel, the proceedings in Crime No.682 of 2021, on the file of the 1st respondent police, is quashed and the terms of affidavit, dated 10.01.2022 shall form part and parcel of this order.

Encl. : Xerox Copy of the Affidavit
of Victim Girl, dated 10.01.2022

Sd/-
Assistant Registrar (CS-IX)

// True Copy //

Sub Assistant Registrar

dna

To

1.The Inspector of Police,
Puduchatram Police Station,
Namakkal.

2.The Public Prosecutor,
High Court, Madras.

+1cc to M/s.W.Camyles Gandhi, Advocate Sr.No.5727

CRL.O.P.No.1698 of 2022

CNR (CO)
RVM(14/02/2022)