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IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED :11.04.2022

CORAM :

THE HONOURABLE MR. JUSTICE A.D.JAGADISH CHANDIRA

Crl.O.P.No.6195 of 2022

P.Lokesh

...Petitioner/Accused

Vs.

1. The State represented by  
The Inspector of Police,  
W-9, All Women Police Station,  
Villivakkam,  
Chennai.

2. Magala T

...Respondents

PRAYER: Criminal Original Petition is filed under Section 482 Cr.P.C., to call for records in Crime No.9 of 2020 on the file of the Respondent Police and quash the same.

For Petitioner : M/s.Preethi S.Arasu

For Respondent 1 : Mr.A.Gokulakrishnan  
Additional Public Prosecutor

For Respondent 2 : Mr.D.Muthuramalingam

O R D E R

The Criminal Original Petition has been filed to call for records in Crime No.9 of 2020 on the file of the Respondent Police and quash the same.

2. The case of the prosecution as per the defacto complainant Megala, mother of the victim XXXX is that she made a complaint against the petitioner that her second daughter aged about 17 years was studying Hotel Management in Annammal Institute of Hotel Management. Since, she was feeling unwell, the defacto complaint had enquired her and her daughter informed her that the accused had induced her with the promise of



marrying her and repeatedly had sexual intercourse with her and later refused to marry her daughter. Based on the complaint given by the de-facto complainant, a case in Crime No.9 of 2020 was registered for the offences under Sections 366 of IPC and 5(f), 5(1)6 of Protection of Child from Sexual Offences Act 2012. The respondent after completion of investigation had filed the final report and the case has been taken up on file in Special S.C.No.62 of 2022 on the file of Special Court for POCSO cases, Chennai.

3.Learned Counsel for the petitioner would submit that the petitioner and daughter of the 2<sup>nd</sup> respondent/de-facto complainant were in love with each other. The date of birth of the daughter of the 2<sup>nd</sup> respondent/de-facto complainant is 16.08.2003. The petitioner and daughter of the 2<sup>nd</sup> respondent/de-facto complainant without understanding the consequences had physical intercourse which is consensual in nature. Later, based on the complaint given by the 2<sup>nd</sup> respondent/de-facto complainant, the case was registered. Subsequently, the victim has attained majority. The petitioner was arrested and he has come out on bail. The parents of the petitioner had also accepted for marriage with the daughter of the defacto complainant and with the consent of the de-facto complainant and other elders in both families, the marriage was solemnised and it has also been registered on 13.12.2021 at the office of SRO, Royapuram. Pursuant to the marriage, the petitioner had also settled half share of his property belonging to him by way of a registered Settlement deed dated 05.04.2022 registered as document No.2532 of 2022 at the office of the SRO, Villivakkam. The petitioner and the 2<sup>nd</sup> respondent/de-facto complainant's daughter are living as husband and wife and they have compromised the matter. The 2<sup>nd</sup> respondent/de-facto complainant and her daughter does not want to proceed further.

4.Learned Additional Public Prosecutor would submit that based on the complaint given by the 2<sup>nd</sup> respondent/de-facto complainant, a case was registered for the offences under Sections 366 of IPC and 5(f), 5(1)6 of Protection of Child from Sexual Offences Act 2012 and after completion of investigation, the case is take up for trial in Spl S.C.No.62 of 2022 on the file of the Special Court for POCSO cases, Chennai in on the file of and stands posted for framing of charges on 29.04.2022.

5.Learned Counsel for the de facto complainant would submit that the victim girl was aged about 17 years at the time of occurrence. He would submit that apprehending the petitioner will not marry her daughter, the 2<sup>nd</sup> respondent/de-facto



complainant has given a complaint. Subsequently, after the victim/daughter attained majority due to the intervention of parents of the petitioner and elders in both families, the petitioner had married the daughter of the 2<sup>nd</sup> respondent/de-facto complainant and they are living as husband and wife at the house of the petitioner. He would submit that the petitioner has also settled half share of his property in favour of the daughter of the 2<sup>nd</sup> respondent/de-facto complainant. He would submit that daughter of the defacto complainant does not want to proceed further.

6.A Joint Memo of Compromise has been filed before this Court, which have been signed by the petitioner and his father and the second respondent and the victim girl and also by their respective counsel. The petitioner and the second respondent/defacto complainant and victim girl were also present in person before this Court and they were identified by the respondent Police. This Court also enquired both the parties and satisfied that the parties have come to an amicable settlement between themselves.

7. The case has been registered for offences under Sections 366 of IPC and 5(f), 5(1)6 of Protection of Child from Sexual Offences Act 2012. It is settled law that the High Court has inherent power under Section 482 of the Code of Criminal Procedure to quash the criminal proceedings even for the offences which are not compoundable under Section 320 of the Code of Criminal Procedure, where the parties have settled their dispute between themselves. However, while quashing the criminal proceedings, based on the settlement arrived at between the parties, the High Court should act with caution and the power should be exercised sparingly only in order to secure the ends of justice and also to prevent abuse of process of any Court. The relevant portion of the joint memo of compromise dated 25.03.2022 is extracted hereunder : -

"1.The petitioner came in contact with one Ms.Dhanushya (2<sup>nd</sup> respondent's daughter) who was pursuing her 1<sup>st</sup> year of college education. The petitioner and Dhanushya fell in love with each other and intended to marry each other after completion of her education. However, due to some misunderstandings they got separated but were still in love with each other. On separation from the petitioner, Dhanushya fell ill and was hospitalised.

2.That, on coming to know of the aforementioned circumstances, the defacto complainant filed a



complaint before the respondent Police alleging that the petitioner had committed offences under Section 376 of IPC and under Section 5(f), 5(1) and 6 of Protection of child from sexual offences Act, 2012.

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3. That, the petitioner informed his parents about that he was still in love with the victim and that he wished to marry her. The petitioner and the victim (daughter of the de-facto complainant) got married on 13.12.2021 upon her attaining the age of majority at Arulmigu Murugan Thirukoil at Chennai with the blessings of both parents and the marriage was registered before the SRO, Royapuram, Chennai.

4. That the 2<sup>nd</sup> respondent agrees to withdraw the allegations in the FIR in Crime No.9 of 2020 on the file of the 1<sup>st</sup> respondent Police and has no objections in the marriage of her daughter with the petitioner.

5. In the aforesaid circumstances, the 2<sup>nd</sup> respondent has agreed for quashing of the FIR in Crime No.9 of 2020 and disposal of the cases in connection therewith pending before the Special Court for Exclusive Trial of Cases under POCSO Act, Chennai."

8. Heard the counsels and perused the entire materials available on record.

9. In Gian Singh vs. State of Punjab [2012 (10) SCC 303], the Supreme Court has held as follows:

"61. The position that emerges from the above discussion can be summarized thus: the power of the High Court in quashing a criminal proceeding or FIR or complaint in exercise of its inherent jurisdiction is distinct and different from the power given to a criminal court for compounding the offences under Section 320 of the Code. Inherent power is of wide plenitude with no statutory limitation but it has to be exercised in accord with the guideline engrafted in such power viz.: (i) to secure the ends of justice, or (ii) to prevent abuse of the process of any court. In what cases power to quash the criminal proceeding or complaint or FIR may be exercised where the offender and the victim have settled their dispute would depend on the facts and circumstances of each case and no category can be prescribed. However, before exercise of such power, the High Court must have due regard to



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the nature and gravity of the crime. Heinous and serious offences of mental depravity or offences like murder, rape, dacoity, etc. cannot be fittingly quashed even though the victim or victim's family and the offender have settled the dispute. Such offences are not private in nature and have a serious impact on society."

10. In *Narinder Singh v. State of Punjab* [2014(6) SCC 466], after considering the *Gian Singh's* case referred to above, the Hon'ble Supreme Court has held as follows :-

29.1. Power conferred under Section 482 of the Code is to be distinguished from the power which lies in the Court to compound the offences under Section 320 of the Code. No doubt, under Section 482 of the Code, the High Court has inherent power to quash the criminal proceedings even in those cases which are not compoundable, where the parties have settled the matter between themselves. However, this power is to be exercised sparingly and with caution.

29.2. When the parties have reached the settlement and on that basis petition for quashing the criminal proceedings is filed, the guiding factor in such cases would be to secure:

- (i) ends of justice, or
- (ii) to prevent abuse of the process of any court.

While exercising the power the High Court is to form an opinion on either of the aforesaid two objectives.

29.3. Such a power is not to be exercised in those prosecutions which involve heinous and serious offences of mental depravity or offences like murder, rape, dacoity, etc. Such offences are not private in nature and have a serious impact on society. Similarly, for the offences alleged to have been committed under special statute like the Prevention of Corruption Act or the offences committed by public servants while working in that capacity are not to be quashed merely on the basis of compromise between the victim and the offender.

29.4. On the other hand, those criminal cases having overwhelmingly and predominantly civil character, particularly those arising out of commercial transactions or arising out of matrimonial relationship or family disputes should be quashed when the parties have resolved their entire disputes among themselves.



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29.5. While exercising its powers, the High Court is to examine as to whether the possibility of conviction is remote and bleak and continuation of criminal cases would put the accused to great oppression and prejudice and extreme injustice would be caused to him by not quashing the criminal cases."

11. In Parbatbhai Aahir v. State of Gujarat [AIR 2017 SC 4843], the Supreme Court held thus"

"(1) Section 482 CrPC preserves the inherent powers of the High Court to prevent an abuse of the process of any court or to secure the ends of justice. The provision does not confer new powers. It only recognises and preserves powers which inherent in the High Court.

(2) The invocation of the jurisdiction of the High Court to quash a first information report or a criminal proceeding on the ground that a settlement has been arrived at between the offender and the victim is not the same as the invocation of jurisdiction for the purpose of compounding an offence. While compounding an offence, the power of the court is governed by the provisions of Section 320 CrPC. The power to quash under Section 482 is attracted even if the offence is non-compoundable.

(3) In forming an opinion whether a criminal proceeding or complaint should be quashed in exercise of its jurisdiction under Section 482, the High Court must evaluate whether the ends of justice would justify the exercise of the inherent power.

(4) While the inherent power of the High Court has a wide ambit and plenitude it has to be exercised (i) to secure the ends of justice, or (ii) to prevent an abuse of the process of any court.

(5) the decision as to whether a complaint or first information report should be quashed on the ground that the offender and victim have settled the dispute, revolves ultimately on the facts and circumstances of each case and no exhaustive elaboration of principles can be formulate.

(6) In the exercise of the power under Section 482 and while dealing with a plea that the dispute has been settled, the High Court must have due regard to the nature and gravity of the offence. Heinous and serious offences involving mental depravity or offences such as murder, rape and dacoity cannot appropriately be quashed though the victim or the family of the victim



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have settled the dispute. Such offences are, truly speaking, not private in nature but have a serious impact upon society. The decision to continue with the trial in such cases is founded on the overriding element of public interest in punishing persons for serious offences.

(7) As distinguished from serious offences, there may be criminal cases which have an overwhelming or predominant element of a civil dispute. They stand on a distinct footing insofar as the exercise of the inherent power to quash is concerned.

(8) Criminal cases involving offences which arise from commercial, financial, mercantile, partnership or similar transactions with an essentially civil flavour may in appropriate situations fall for quashing where parties have settled the dispute.

(9) In such a case, the High Court may quash the criminal proceeding if in view of the compromise between the disputants, the possibility of a conviction is remote and the continuation of a criminal proceeding would cause oppression and prejudice; and

(10) There is yet an exception to the principle set out in Propositions (8) and (9) above. Economic offences involving the financial and economic well-being of the State have implications which lie beyond the domain of a mere dispute between private disputants. The High Court would be justified in declining to quash where the offender is involved in an activity akin to a financial or economic fraud or misdemeanour. The consequences of the act complained of upon the financial or economic system will weigh in the balance."

12. Subsequently, a three judges bench of the Hon'ble Apex Court in *State of Madhya Pradesh v. Laxmi Narayan* reported in (2019) 5 SCC 688 the Hon'ble Supreme Court, considering all the above judgments, has held as follows:

i) that the power conferred under Section 482 of the Code to quash the criminal proceedings for the non-compoundable offences under Section 320 of the Code can be exercised having overwhelmingly and predominantly the civil character, particularly those arising out of commercial transactions or arising out of matrimonial relationship or family disputes and when the parties have resolved the entire dispute amongst themselves;







file of Special Court for POCSO cases, Chennai is quashed and Joint Memo of Compromise signed by both the parties and their parents, the Affidavit of the victim girl 28.03.2022 and the Affidavit of the 2nd respondent dated 28.03.2022, shall form part of Court records.

**(\* Joint Memo of Compromise xerox copies enclosed)**

s/d-  
Assistant Registrar

True Copy

Sub-Assistant Registrar

vkrr/nti

To

1. The Inspector of Police,  
W-9, All Women Police Station,  
Villivakkam,  
Chennai.

2. The Public Prosecutor,  
High Court of Madras

+1 CC to M/s. Preethi Arasu, Advocate sr 25285.

Cr1.O.P.No.6195 of 2022

AKII (CO)  
SP(11/05/2022)