



WEB COPY

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 08.06.2022

CORAM:

THE HON'BLE MR.JUSTICE N.SATHISH KUMAR

CRL.O.P.NO.6795 OF 2022

AND

CRL.M.P.NO.3877 OF 2022

1.Murugan,
S/o.Velayudam

2.Meena,
S/o. Murugan

3.Iseelan,
S/o. Murugan

...Petitioners / Accused

Versus

1.State by
Inspector of Police,
All Women Police Station,
Thudiyalur, Coimbatore Dt.
(Crime No.38 of 2021)

...1st Respondent / Complainant

3.Radha,
W/o.Velusamy

...2nd Respondent / Defacto Complainant

PRAYER : Criminal Original Petition filed under Section 482 of the Code of Criminal Procedure, to call for the records related to the case in Crime No.38 of 2021 on the file of 1st respondent police and quash the same as against the petitioners/accused.

For Petitioner : Mr.C.Emalias for
Mr.R.Thamarai Selvam

For Respondents : Mr.A.Gokulakrishnan,
Addl. Public Prosecutor for R1
No appearance for R2

ORDER

This Criminal Original Petition has been filed seeking to quash the F.I.R. registered in Crime No.38 of 2021 on the file of 1st respondent police for the offence under Sec.5(1), 6, 17 of POCSO Act.



2. The petitioners 1 and 2 herein are parents of A1 and the 3rd petitioner/A4 is brother of A1. The crux of the allegation in the F.I.R. is that the victim girl is aged about 16 years and she fell in love with A1. Their love affair has been disclosed to the parents of A1 viz., petitioners 1 and 2. They have also assured with their son and victim girl that their marriage would be convened after two years, i.e. after she attains majority. In the said circumstances, F.I.R. has been registered in Crime No.38 of 2021 for offence under Sec.5(1), 6 and 17 of POCSO Act. Now, quashing the F.I.R., the present petition has been filed.

3. Heard learned counsel appearing for petitioners and the learned Addl. Public Prosecutor appearing for respondent and perused the records.

4. The learned counsel appearing for petitioners would submit that he wants to withdraw the petition filed on behalf of 3rd petitioner, who is arrayed as A4 and pressed his arguments only in respect of petitioners 2 and 3, who are arrayed as A2 and A3 in the main F.I.R. It is his contention that the parents have assured the minor girl of her marriage after two years i.e. after she attains majority and no allegation has been made against them, whereas F.I.R. was registered for offence under Sec.5(1), 6, 17 of POCSO Act. At any event, mere assurance that her marriage after she attains majority will not amount to abetment of any crime. Hence, he seeks to quash the F.I.R. against the petitioners 1 and 2.

5. It is relevant to note that interfering the F.I.R. at the investigation stage will not be done normally, and only in exceptional circumstances, this Court could exercised its jurisdiction under Sec.482 of Cr.P.C., particularly, the very F.I.R. itself indicates that the materials placed by the prosecution do not constitute any offence against the petitioners 1 and 2 or any F.I.R. is manifested on malafide, the Court can very well interfere on the ground of abuse of process of law.

6. On perusal of F.I.R. as well as 164 statement, this Court is of the view that except the allegation that the parents of A1 assured the marriage of minor girl after two years, no other allegation made against them. Such being the position, the abetment of offence of serious nature under Sec.5(1), 6, 17 of POCSO Act will not attract against them. It is a normal human conduct of any parents to inform the victim girl, who fell in love with their son for her marriage after she attains majority. Therefore, mere advise of the parents cannot be construed as abetment of crime.



7. In such view of the matter, this Court is of the view that continuing the F.I.R. or prosecuting the parents for the acts done by A1, who fell in love with the defacto complainant is nothing, but a futile exercise and abuse of process of law. Accordingly, the F.I.R. registered against the petitioners 1 and 2 viz., A2 and A3 in the main F.I.R. registered in Crime No. 38 of 2021 alone is quashed and the 1st respondent police shall proceed investigation as against A1 and 3rd petitioner/A4 as per law and this Criminal Original Petition is partly allowed. Consequently, the connected Criminal Miscellaneous Petition is closed.

Sd/-
Assistant Registrar(CO)

// True Copy //

Sub Assistant Registrar

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To

1.The Inspector of Police,
All Women Police Station,
Thudiyalur, Coimbatore Dt.

2.The Public Prosecutor,
High Court, Madras.

+2ccs to Mr.R.Thamaraiselvan, Advocate Sr.No.32996

CRL.O.P.No.6795 of 2022

GPL(CO)
RVM(16/06/2022)