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Crl.OP.No.13083 of 2022

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 29.06.2022

CORAM:

THE HONOURABLE MR.JUSTICE N. SATHISH KUMAR

Crl.O.P. No.13083 of 2022

V.Kalidoss

... Petitioner

Vs.

1. The State Rep. by The Inspector of Police,
W-31, All Women Police Station,
St. Thomas Mount, Chennai – 600 016
[Crime No.5 of 2018]

2. Kasthuri

... Respondents

PRAYER: Criminal Original Petition filed under Section 482 of Criminal Procedure Code, to call for the records in Crime No.05 of 2018 on the file of the first respondent, Inspector of Police, W-31, All Women Police Station, St. Thomas Mount, Chennai for the offence under section 376 of IPC and quash the same.

For Petitioner : Mr.C.Mohanraj

For Respondents : Mr.A.Gokulakrishnan
Additional Public Prosecutor – R1

Mr.P.G.Santhoshkumar – R2



ORDER

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This Criminal Original Petition has been filed to call for the records in the First Information Report registered in Crime No.05 of 2018 on the file of the first respondent for the offence under section 376 of IPC and quash the same.

2. The allegations against the petitioner in the First Information Report is that the petitioner, on the promise of marrying the defacto complainant had sexual relationship with her and thereafter, refused to marry her.

3. The petitioner and the defacto complainant have filed a Joint Compromise Memo before this Court to the effect that the petitioner and the defacto complainant have amicably settled dispute between them and because of intervention of some third parties they had misunderstanding between them and now they decided to break up their relationship and to live apart and hence, submitted that the proceedings against the petitioner may be quashed.



4. Ms. Joice Lovely, Sub Inspector of Police was present before this Court and she informed this Court that the second respondent had approached her and informed her that since the defacto complainant and the petitioner have amicably settled the dispute between themselves and she do not want to proceed further with the criminal proceedings against the petitioner.

5. The Defacto Complainant is also present before this Court at the time of hearing. This Court enquired the defacto complainant and she stated that she had amicably settled the dispute with the petitioner and that she is not willing to undergo this agony any further and wanted the criminal proceedings to be quashed.

6. The learned Additional Public Prosecutor appearing on behalf of the first respondent submitted that though the parties entered into a compromise while this case is pending, this Court, taking into account the seriousness of the offence has to consider the issue as to whether an offence of this nature can be quashed on the ground of compromise between parties.



7. 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 petitioner. The Hon'ble Supreme Court in the case of ***Parbathbhai Aahir @ Parbathbhai Vs. State of Gujraath***, reported in ***2017 9 SCC 641*** and in 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 offences against the society with overriding public interest even if it gets settled between the parties, cannot be quashed by this Court.

8. In the present case, the offence in question are purely individual/personal in nature. It involves the petitioner and the defacto complainant and their respective families only. It involves the future of two young persons and quashing the proceedings, will not affect any overriding public interest in this case and it will in fact pave way for the petitioner and



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the defacto complainant to settle down in their life and look for better future prospects. Further, the allegations in the First Information Report indicate that there is consensual physical relationship between the defacto complainant and the petitioner and the defacto complainant is a major at the relevant point of time. Therefore, the offence under section 376 of IPC would not be attracted and no useful purpose will be served in continuing the criminal proceedings and keeping these proceedings pending will only swell the mental agony of the petitioner and the defacto complainant.

9. In view of the above, this Court is inclined to quash the First Information Report registered in Crime No.5 of 2018 on the file of the first respondent in exercise of its jurisdiction under Section 482 of the Criminal.

10. Accordingly, this Criminal Original Petition is allowed and the First Information Report registered in Crime No.5 of 2018 on the file of the first respondent, is quashed. The Joint Memo of compromise filed by the parties shall form part of the records.

29.06.2022

vrc



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To,

1. The Inspector of Police,
W-31, All Women Police Station,
St. Thomas Mount, Chennai – 600 016
2. The Public Prosecutor,
High Court of Madras.



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N. SATHISH KUMAR, J.

VTC

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