



Crl.O.P.No.17597 of 2021

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 18.10.2022

CORAM:

THE HON'BLE Ms.JUSTICE **R.N.MANJULA**

Crl.O.P.No.17597 of 2021 and
Crl.M.P.Nos.9669 & 9671 of 2021

Santhosh Kumar

... Petitioner

Vs.

1.State Rep by:

The Inspector of Police,
Perambalur Police Station,
Perambalur District.
[Crime No.231 of 2020]

2.Vasuki (Minor),

Rep. By her father and natural guardian Appar

... Respondents

PRAYER : Criminal Original Petition is filed under Section 482 of Cr.P.C., to call for the records made in Spl.S.C.No.4 of 2021, on the file of the Special Court for POCSO Cases, Perambalur and quash the same as illegal.

For Petitioner : Mr.M.Velmurugan

For Respondents : Mr.A.Damodaran, APP for R1

ORDER

This Criminal Original Petition has been preferred to call for the records made in Spl.S.C.No.4 of 2021, on the file of the Special Court for POCSO Cases, Perambalur and quash the same as illegal.

2.



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Heard Mr.M.Velmurugan, learned counsel for the petitioner and Mr.A.Damodaran, learned Additional Public Prosecutor appearing for the first respondent.

3. The petitioner is a sole accused against whom an FIR has been registered for the offence under Sections 366 (A), 506(ii) of IPC and Sections 5(j)(ii) and 6 of POCSO Act. Even though the complaint has been given by the victim girl, subsequent to the filing of this case, it came to light that the petitioner and the second respondent / defacto complainant had fallen in love and it is a case of love affair. It is seen that the second respondent/defacto complainant has settled all the disputes between herself and the petitioner. The parties have entered into a joint memo of compromise and the same was filed before this Court.

4. When the matter was taken up for hearing, the petitioner and the defacto complainant were present before this Court and identified by their respective counsel and Mr.P.Thangadurai, SSI, Perambalur Police Station, Perambalur District. In order to identify the respective parties, they have also produced the copies of the Aadhaar Cards. The terms of compromise were read over to the petitioner and the second respondent. They accepted it to be true



and it has been entered between themselves without any coercion or influence.

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5. The defacto complainant has stated during the enquiry that she had a love affair with the petitioner and she had gone along with him voluntarily. Since the parents of the defacto complainant did not accept the love affair between the petitioner and the defacto complainant, at the instance of her parents, the complaint has been given. Though the victim girl was a minor at the time when the case was registered, after she attained majority, she had chosen to marry the petitioner on 24.08.2022 at her own will. The date of birth of the defacto complainant is 22.08.2003 and their marriage got registered at the Sub-Registrar Office, Tiruvallur on 24.08.2022. So the factum of marriage between the petitioner and the second respondent / defacto complainant is proved through the Marriage Register Certificate.

6. The petitioner is also young and he was born on 25.05.1998. When enquired, both the parties told that they want to settle peacefully in their life, as they had chosen each other as their life partner. The parties appeared to have entered into a terms of compromise voluntarily without any threat or coercion. The defacto complainant firmly believes that her future is with the petitioner only. The petitioner has also stated that he would lead a successful



and caring life with the second respondent.

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7. Even though the offences under POCSO Act are non-compoundable in nature, in the circumstances of the present case, I feel it is appropriate to refer the principles laid down by the Hon'ble Supreme Court in the case of **Parbatbhai Aahir Vs. State of Gujarat [AIR 2017 SC 4843]**. In the said case, in Paragraph 15, it has held as under:-

"15.The Broad Principles which emerge from the precedents on the subject, may be summarised in the following propositions:-

(i) Section 482 Cr.P.C 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.

(ii) 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 of the Code of Criminal Procedure, 1973. The power to quash under Section 482 is attracted even if the offence is non-compoundable.

8. The petitioner who has married the defacto complainant cannot be



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allowed to suffer a criminal proceedings against him. In fact, that would go detrimental to the interest of the defacto complainant herself who had chosen to marry the petitioner. In order to enable the petitioner and the defacto complainant to live peacefully in accordance with the choice of life chosen by them, I feel it is appropriate to quash the criminal proceedings against the petitioner by invoking the powers of this Court under Section 482 of Cr.P.C.

9. In the result, this Criminal Original Petition is allowed and as a sequel, the further proceedings in Spl.S.C.No.4 of 2021, on the file of the Special Court for POCSO Cases, Perambalur, is quashed due to compromise. The Joint Compromise Memo shall form part of this Order. Consequently, connected Miscellaneous Petitions are closed.

Index: Yes/No

18.10.2022

Speaking / Non Speaking Order
gsk

To

1.The Special Court for POCSO Cases,
Perambalur.

2.The Inspector of Police,
Perambalur Police Station,
Perambalur District.

3.The Public Prosecutor,
High Court of Madras.

R.N.MANJULA, J.

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