



WEB COPY

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 04.02.2022

CORAM

THE HON'BLE MR.JUSTICE M.NIRMAL KUMAR

Cr1.O.P.No.21252 of 2021
and
Cr1. M.P. No.11516 of 2021

Sundharesan

...Petitioner

Versus

1. State Rep. by
The Inspector of Police,
AWPS, Poonamallee
Crime No.119 of 2021.

2.G.Shankar

3.S.Stella

...Respondents

Prayer: This Criminal Original Petition is filed under Section 482 of Criminal Procedure Code praying to call for the records of F.I.R in Crime No.119 of 2021 on the file of the first respondent for the offences under Section 363 of I.P.C read with Section 6 of POCSO Act, 2012 and quash the same.

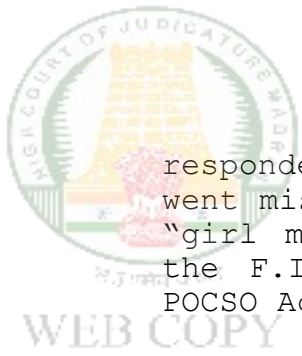
For Petitioner : Mr.N.Shanmuga Thayumanavan

For Respondent-1 : Mr.E.Raj Thilak
Additional Public Prosecutor

O R D E R

The Criminal Original Petition has been filed to call for the entire records in Crime No.119 of 2021 on the file of the first respondent police and quash the FIR against the petitioner.

2. The case of the prosecution is that the petitioner/accused kidnapped the alleged victim girl i.e., the third respondent herein and sexually assaulted her. Originally, the second respondent/ de-facto complainant i.e., the third



respondent's father lodged a complaint stating that his daughter went missing, the same was registered as F.I.R No.119 of 2021 as "girl missing case". Thereafter, the respondent police altered the F.I.R under Section 363 of I.P.C read with Section 6 of POCSO Act, 2012 without any material evidence.

3. The learned counsel for the petitioner submitted that this Court, vide order dated 24.03.2021 in CrI.O.P. No.5927 of 2021, allowed the bail application of the petitioner, by taking into consideration the fact that it is not the case of kidnap and prima facie, there is no material available for kidnapping and other offences, and also taking into account that the period of incarceration suffered by the petitioner from 06.03.2021. The allegations against the petitioner in the above F.I.R is untenable and baseless and the respondent police has also not filed any charge sheet in the Crime No.119 of 2021 before the learned District Mahila Judge (Fast Track Court), Tiruvallur, till date.

4. By passage of time, the parties have decided to compromise the dispute amicably among themselves. Now, both the family had mutually agreed to arrange for marriage of the petitioner and the third respondent.

5. Earlier this Court, on 11.01.2022, directed the petitioner and the third respondent/victim girl along with their parents to appear before the first respondent-Police, produce the compromise memo along with their identity particulars. Thereafter, the first respondent-Police to conduct enquiry with regard to the compromise between the parties and report before this Court on 04.02.2022. As per the order of this Court, the parties have appeared before the first respondent-Police and has informed about the settlement arrived between the parties herein and further had reduced the same in writing and submitted it before the 1st respondent police.

6. The second respondent, the victim girl/third respondent and the accused are present before this Court and filed the Joint Compromise Memo.

7. This Court in the case of "Sabari Vs. Inspector of Police reported in 2019 (2) MLJ CrI.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 CrI.O.P.No.16648 of 2018" this



Court had quashed the proceedings on the compromise arrived between the accused and defacto complainant.

9. In the light of the above decisions and considering the fact that the continuation of the proceedings would affect the peaceful life of the victim girl and the petitioner, this Court is inclined to quash the FIR against the petitioner in Crime No.119 of 2021 on the file of the first respondent police and is quashed.

10. Accordingly, this Criminal Original Petition is allowed. The Joint Compromise Memo filed by the parties shall form part and parcel of this case. Consequently, the connected Miscellaneous Petition is closed.

(*)Xerox copy of Joint Memo Compromise enclosed.

Sd/-
Assistant Registrar

True Copy//

Sub Assistant Registrar

ab/srn

To

1. The District Mahila Court (FTC),
Tiruvallur.
2. The Inspector of Police,
AWPS, Poonamallee.
3. The Public Prosecutor
High Court, Madras.

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SKM[co]
NSK 12/04/2022