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IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 20.01.2022

CORAM:

THE HON'BLE MR.JUSTICE M.NIRMAL KUMAR

CRL.O.P.No.25990 of 2021

A.Ajith @ Ajithkumar

... Petitioner/1st Accused

Versus

1. State Rep. by
The Inspector of Police,
Kattumannarkoil,
Cuddalore District.

2. S.Chitra

3. A.Sowmiya

... Respondents/Defacto Complainant

PRAYER: Criminal Original Petition filed under Section 482 of the Code of Criminal Procedure, to call for the records relating to the Charge Sheet in SPL. SC. No.98 of 2019 pending on the file of Special Court for POCSO Act, Cuddalore.

For Petitioner : Mr.S.Varanesh

For Respondent : Mr.E.Raj Thilak
Additional Public Prosecutor
for R1

O R D E R

The Criminal Original Petition has been filed to call for the records relating to Charge Sheet in SPL. SC. No.98 of 2019 pending on the file of Special Court for POCSO Act, Cuddalore and quash the same.

2. The case of the prosecution is that on 16.04.2019, the third respondent aged about 17 years was kidnapped by the petitioner and other accused also abandoned her without her consent. Hence, the case has been registered against the petitioner in Crime No.75 of 2019 for the offence under Sections



363, 366, 366(A) & 354 D of IPC and Section 5(I) r/w.6 & 17 of POCSO Act, 2012, Sections 9 & 10 of Prohibition of Child Marriage Act, 2006.

3. The gist of the case is that the Aunt of the victim girl lodged a complaint on 16.04.2019 informing that the victim was left with her care 10 months prior, at that time victim who had strain in her hand and she used to go for physiotherapy treatment at Yazhini Physiotherapy Centre. On 16.04.2019, the victim failed to return back home and search was made. Thereafter, the complaint was lodged suspecting the Petitioner/A1, since the victim had love affair with him, which was objected by the parents of the victim. After registration of case, A1 and victim were rescued in Perunthurai and produced before the learned Magistrate, statement under Section 164 Cr.P.C., was recorded on 11.06.2019, wherein she confirmed her love affair and relationship with A1. On coming to know A1 proposal to go abroad for employment, it was victim, who forced him to take her along with him, otherwise she will end her life. Since A1 has no other option to save victim from any such absence step, he agreed to take the victim, thereafter both lived as husband and wife, victim was a minor then.

4. The Additional Public Prosecutor submits that on the complaint of the victim's Aunt, case was registered and the victim and accused were located in Perundurai. Then, victim rescued and accused was arrested after more than a month. Thereafter, victim girl produced before the learned Magistrate for recording the statement under Section 164 and produced for Medical Examination. Further investigation was conducted, witnesses were examined, documents were collected and after completion of investigation, charge sheet was filed, listing witnesses LW.1 to L.W.32 along with documents and now, the case is pending trial. In the meanwhile, it is found that victim after attaining majority joined with A1, got married on 06.06.2020 at Sree Lakshmi Thirumana Mahal, Nagapattinam, which was registered with SRO, Nagapattinam on 10.07.2020. Out of the wedlock, one boy baby viz., Siddarth, born to them on 09.05.2021. The compromise verified, both victim and A1 are living as husband and wife with a Baby. A2 to A3 are parents of A1, A4 & A5 are uncle and Aunt of A1.

5. The case is pending trial. By passage of time, the parties have decided to compromise the dispute amicably among themselves.

6. A Joint Memo of Compromise dated 06.01.2022 has been filed before this Court which have been signed by the petitioner and the victim, third respondent and by their respective counsels. The respondents and petitioner present through Video



conferencing along with their Baby. In the affidavit, it is stated that the petitioner third respondent got married on 06.06.2020 at Sree Lakshmi Thirumana Mahal Public Office Road, Nagapattinam, the said marriage was registered before the Joint Sub Registrar-I, Nagapattinam on 10.07.2020. Out of the wedlock one male child was born to them on 09.05.2021. From the date of marriage, they are living together as noble couple to the society. Further victim confirmed that continuation of proceedings against her husband and in-laws would only do more damage and victim and the Baby will be left with no support and their life would become questionable. This Court enquired both the parties and satisfied that the parties have come to an amicable settlement for further welfare of victim and Baby.

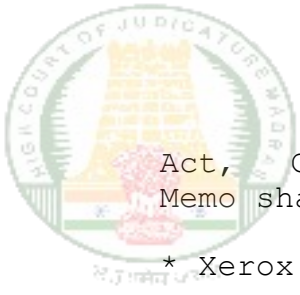
7. It is seen that the victim and A1 were in love with each other right from their young age, victim girl confirms and asserts that it was she who forced A1 to take her otherwise, she would end her life, which she confirmed at the first instance itself when her 164 statement was recorded. Followed by marriage, on attaining majority, now the victim girl has given birth to a Male Baby. Now disturbing the formidable relationship will affect the peaceful life and the future of victim and the Baby. The other Accused A2 to A5 are parents and Uncle and Aunt of A1, they have no role in the relationship of A1 and Victim.

8. This Court in the case of "Sabari Vs. Inspector of Police reported in 2019(2) MLJ CrL.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.

9. In a similar situation, in the case of "Kumar @ Tennish Vs. The Inspector of Police, Latheri Police Station, Katpadi Taluk, Vellore and another in CrL.O.P.No.16648 of 2018", this Court had quashed the proceedings on the compromise arrived between the accused and defacto complainant.

10. 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 A1, this Court is inclined to quash the proceedings against the respondents in SPL. SC. No.98 of 2019 pending on the file of Special Court for POCSO Act, Cuddalore.

11. In the result, this Criminal Original Petition stands allowed and as a sequel, the proceedings in Charge Sheet in SPL. SC. No.98 of 2019 pending on the file of Special Court for POCSO



Act, Cuddalore, is quashed and the terms of Joint Compromise Memo shall form part and parcel of this order.

* Xerox copy of the Joint Compromise Memo is enclosed.

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Sd/-
Assistant Registrar (CS-III)

//True Copy//

Sub Assistant Registrar

rkp

To

1. The Special Court Judge for POCSO Act,
Cuddalore
2. The Inspector of Police,
Kattumannarkoil,
Cuddalore District.
3. The Public Prosecutor,
High Court, Madras.

+1cc to Mr.S.Varanesh, Advocate, S.R.No.3833

CRL.O.P.No.25990 of 2021

VG-II (CO)
SU(03/03/2022)