



BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

DATED: 12.01.2022

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THE HONOURABLE MR.JUSTICE G.R.SWAMINATHAN

Crl.O.P. (MD)No.626 of 2022 and
CRL.M.P.(MD)NOS.455 & 456 OF 2022

K.Santhanamariselvam

... Petitioners / Sole Accused

Vs.

1. State rep. By,
The Inspector of Police,
Vilathikulam AWPS police station,
Thoothukudi District. ... 1st Respondent / Complainant
2. xxxx ... 2nd Respondent /
Defacto Complainant

Prayer: Criminal Original petition is filed under Section 482 of Cr.P.C, to call for the records in connection with the impugned charge sheet in Spl.S.C.No.22 of 2021 dated 08.02.2021 on the file of the learned Special Court, Thoothukudi District and quash the same.

For Petitioner : Mr.M.Pandian

For R-1 : Mr.M.Sakthi Kumar,
Government Advocate.

For R-2 : Mr.Ganesh Kamu

O R D E R

Heard the learned counsel on either side.

2. This criminal original petition has been filed for quashing the impugned proceedings.

3. The defacto complainant is present before this Court through video conferencing. She has been duly identified by Ms.J.Tamilselvi, W.Gr.I-2175, attached to the first respondent police station and the same has been duly confirmed by Mr.M.Sakthi Kumar, learned Government Advocate.



4. The petitioner is facing trial for the offences under Sections 5(1), 5(j)(ii) and 6 of the Protection of Child from Sexual Offences Act 2012. The defacto complainant and the accused have got married. The marriage certificate has also been enclosed in the typed set of papers. The defacto complainant does not want to pursue the matter.

5. I am conscious that the offences under POCSO Act are not compoundable. However, a learned judge of this Court, vide order dated 27.01.2021 in the decision reported in CDJ 2021 MHC 636 (Vijayalakshmi Vs. State rep. by the Inspector of Police) had held as follows:-

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

20. In the present case, the offences in question are purely individual / personal in nature. It involves the second petitioner and the second respondent and their respective families only. It involves the future of two young who are still in their early twenties. The second respondent is working as an auto driver to eke his livelihood. Quashing the proceedings, will not affect any overriding public interest in this case and it will in fact pave way for the second petitioner and the second respondent to settle down in their life and look for better future prospects. No useful purpose will be served in continuing with the criminal proceedings and keeping these proceedings will only swell the mental agony of the victim girl and her mother and not to forget the second respondent as well."

6. Respectfully adopting the very same approach, I quash the impugned proceedings also. The parties have also filed a joint <https://hccservices.courts.gov.in/hccservices/> case before this Court. The same is taken on record.



The impugned proceedings stand quashed. This criminal original petition is allowed. Consequently, connected miscellaneous petitions are closed.

Sd/-

Assistant Registrar (AS)

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// True Copy //

/ /2022

Sub Assistant Registrar(CS)

PMU

Enclose copy of Joint Compromise Memo.

Note: In view of the present lock down owing to COVID-19 pandemic, a web copy of the order may be utilized for official purposes, but, ensuring that the copy of the order that is presented is the correct copy, shall be the responsibility of the advocate/litigant concerned.

To:

- 1.The Sessions Judge, Special Court for Exclusive Trial of Cases Under POCSO Act, Thoothukudi.
2. The Inspector of Police, Vilathikulam AWPS police station, Thoothukudi District.
3. The Additional Public Prosecutor, Madurai Bench of Madras High Court, Madurai.

+1 CC to M/s.M.PANDIAN, Advocate (SR-1552[F] dated 12/01/2022)

Cr1.O.P. (MD) No.626 of 2022
12.01.2022

RK(27/01/2022) 3P 5C