



BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

DATED: 27.01.2022

CORAM

THE HONOURABLE MR. JUSTICE G.R. SWAMINATHAN

Crl.O.P.(MD)No.1355 of 2022

Prabakaran

... Petitioner / Sole Accused

Vs.

1. State through,
The Inspector of Police,
Ilathur police station,
Tirunelveli District.
(Crime No.279 of 2019) ... 1st Respondent / Complainant
2. xxxx ... 2nd Respondent /
Defacto Complainant
3. xxxx ... 3rd Respondent / Victim

Prayer: Criminal Original petition is filed under Section 482 of Cr.P.C, to call for the records relating to the charge sheet in Spl.C.C.No.70 of 2021 on the file of the Sessions Judge, Special Court for POCSO Act Cases, Tirunelveli and quash the same.

For Petitioner	: Mr.C.Susi Kumar
For R-1	: Mr.M.Sakthi Kumar, Government Advocate.
For R-2	: Mr.R.Maheswaran

O R D E R

Heard the learned counsel on either side.

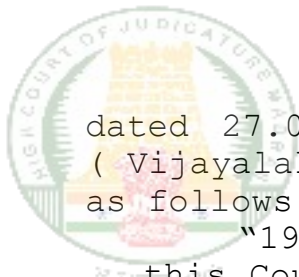
2. This criminal original petition has been filed for quashing the impugned proceedings.

3. The defacto complainant as well as the victim are present before this Court through video conferencing. They have been duly identified by Mr.S.Rajadurai, SSI-331, 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 and the victim have gone their separate ways. The victim married some other person and now she is said to be eight months pregnant. Therefore she does not want to pursue the matter. The respondent police also confirmed the said stand of the victim.

5. I am conscious that the offences under POCSO Act are not compoundable. However, a learned Judge of this Court, vide order

<https://hcservices.ecourts.gov.in/hcservices/>



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 Gujarath 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 CrI 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 memo of compromise before this Court. The same is taken on record. The impugned proceedings stand quashed. This criminal original petition is allowed.

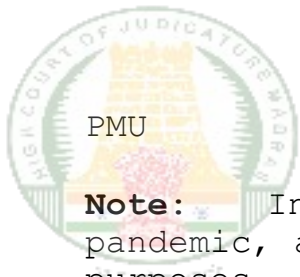
Sd/-

Assistant Registrar (AS)

// True Copy //

/ /2022

Sub Assistant Registrar(CS)



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 POCSO Act Cases,
Tiruneveli.
2. The Inspector of Police,
Ilathur police station,
Tirunelveli District.
3. The Additional Public Prosecutor,
Madurai Bench of Madras High Court, Madurai.

Crl.O.P. (MD)No.1355 of 2022
27.01.2022

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