



BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

DATED : 31.01.2022

CORAM :

THE HONOURABLE MR.JUSTICE G.R.SWAMINATHAN

Crl.O.P (MD) No.2117 of 2021

WEB COPY

xxxxxxx

... Petitioner/Sole Accused

Vs.

1.The State Rep by
The Inspector of Police,
All Women Police Station,
Pudukottai,
Tuticorin District.
(Crime No.8 of 2019)

... 1st Respondent/Complainant

2.xxxxxxxxxxx

... 2nd Respondent/Defacto Complainant

3.xxxxxxxxxxx

... 3rd Respondent/Victim Girl

Prayer: This Criminal Original Petition is filed under Section 482 of Cr.P.C., to call for the records pertaining to the charge sheet in Special S.C.No.10 of 2020 on the file of the POCSO Court, Tuticorin against Crime No.8 of 2019 on the file of the 1st respondent police and quash the same.

For Petitioner : Mr.P.Banuprasath, Advocate
For Respondents : Mr.M.Sakthi Kumar,
Govt.Advocate (Crl.Side) for R1.
Mr.S.T.Sasidharan Tamilkani for R2 & R3.

O R D E R

This Criminal Original Petition has been filed to quash the proceedings in Spl.S.C.No.10 of 2020 on the file of the Special Court for Exclusive Trial of Cases under POCSO Act, Thoothukudi.

2.The victim and the defacto complainant are present before this Court in person through video conferencing. They have been duly identified by Ms.G.Subbulakshmi, Wgr-I 888, attached to first respondent police station. The victim has appeared before this Court as well as before the respondent police and had made it clear that she is not going to support the prosecution.

3.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."

4.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. The criminal original petition is allowed. The joint compromise memo will form part of the order.

Sd/-

Assistant Registrar (A.D I)

// True Copy //

/ /2022

Sub Assistant Registrar(CS)

(*) Enclosed herewith The 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.

WEB COPY

- To:
- 1.The Special Judge for Exclusive Trial of Cases under POCSO Act,
Thoothukudi.
 - 2.The Inspector of Police,
All Women Police Station,
Pudukottai,
Tuticorin District.
 - 3.The Additional Public Prosecutor,
Madurai Bench of Madras High Court,
Madurai.

+1 CC to M/s.P.BANU PRASATH, Advocate (SR-3217[F] dated 31/01/2022)

+1 CC to M/s.S.T.SASIDHARAN TAMILKANI, Advocate (SR-3408[F] dated 01/02/2022)

CrI.O.P(MD)No.2117 of 2021
31.01.2022

RS (18.02.2022) 3P-6C