



BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

DATED : 22.04.2022

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THE HONOURABLE MR.JUSTICE G.K.ILANTHIRAIYAN

Cr1.O.P(MD)No.7500 of 2022

S.Sarankumar

... Petitioner/Sole Accused

Vs.

1. The Inspector of Police,
Ganeshnagar Police Station,
Pudukottai.
(In Cr.No.264 of 2017)

...1st Respondent/Complainant

Radhakrishnan (Died)

2. xxxxxxxx
xxxxxxx
Pudukottai.

...2nd Respondent/Victim

Prayer: Criminal Original Petition is filed under Section 482 Cr.P.C., to call for the records pertaining to the case in Spl.S.C.No.21 of 2017 under Sections 363 of IPC and Section 6 of the Protection of Children from Sexual Offences Act, 2012 on the file of the Mahila Court, Pudukottai and quash the same.

For Petitioner : Ms.P.Krishnaveni

For Respondents : Mr.R.M.Anbunithi

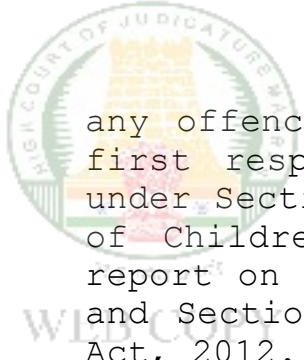
Additional Public Prosecutor for R1

ORDER

This petition has been filed to quash the proceedings in Spl.S.C.No.21 of 2017 on the file of the Mahila Court, Pudukottai as against the petitioner.

2. The case of the prosecution is that the petitioner by giving false promise to marry the victim girl, who is aged about 16 years, had sexual intercourse with her on several occasions. Therefore, the present case came to be registered.

3. The learned Counsel appearing for the petitioner would submit that the petitioner is an innocent and he has not committed



any offence as alleged by the prosecution. Without any base, the first respondent police registered a case in Cr.No.264 of 2017 under Section 363 of IPC and Section 5(1) and 6 of the Protection of Children from Sexual Offences Act, 2012 and filed a final report on 16.08.2017 and framed charges under Sections 363 of IPC and Section 6 of the Protection of Children from Sexual Offences Act, 2012. Hence he prayed to quash the same.

4.The learned Additional Public Prosecutor would submit that the Mahila Court, Pudukottai took cognizance in Spl.S.C.No.21 of 2017 and completed the trial and the said case is posted on 26.04.2022 for judgment. The petitioner is still in the judicial custody at Pudukottai District Jail.

5. Heard both sides and perused the materials available on record.

6.While being so, the petitioner filed this petition to quash the entire proceedings on compromise. On perusal of compromise, the victim girl got married other person and not married the first accused. Therefore, this Court is not inclined to quash the petition, since the first accused committed very serious offence as against the victim girl.

7. It is relevant to rely upon the judgment of the Hon'ble Supreme Court of India passed in **Crl.A.No.579 of 2019** dated **02.04.2019** in the case of **Devendra Prasad Singh Vs. State of Bihar & Anr.**, as follows:-

"12.So far as the second ground is concerned, we are of the view that the High Court while hearing the application under Section 482 of the Cr.P.C. had no jurisdiction to appreciate the statement of the witnesses and record a finding that there were inconsistencies in their statements and, therefore, there was no prima facie case made out against respondent No.2. In our view, this could be done only in the trial while deciding the issues on the merits or/and by the Appellate Court while deciding the appeal arising out of the final order passed by the Trial Court but not in Section 482 Cr.P.C. proceedings.



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13. In view of the foregoing discussion, we allow the appeal, set aside the impugned order and restore the aforementioned complaint case to its original file for being proceeded with on merits in accordance with law.

8. Recently, the Hon'ble Supreme Court of India dealing in respect of the very same issue in **Crl.A.No.1572 of 2019** dated 17.10.2019 in the case of **Central Bureau of Investigation Vs. Arvind Khanna**, wherein, it has been held as follows:

"19. After perusing the impugned order and on hearing the submissions made by the learned senior counsels on both sides, we are of the view that the impugned order passed by the High Court is not sustainable. In a petition filed under Section 482 of Cr.P.C., the High Court has recorded findings on several disputed facts and allowed the petition. Defence of the accused is to be tested after appreciating the evidence during trial. The very fact that the High Court, in this case, went into the most minute details, on the allegations made by the appellant-C.B.I., and the defence put-forth by the respondent, led us to a conclusion that the High Court has exceeded its power, while exercising its inherent jurisdiction under Section 482 Cr.P.C.

20. In our view, the assessment made by the High Court at this stage, when the matter has been taken cognizance by the Competent Court, is completely incorrect and uncalled for."

9. Further the Hon'ble Supreme Court of India also held in the order dated **02.12.2019** in **Crl.A.No.1817 of 2019** in the case of **M.Jayanthi Vs. K.R.Meenakshi & anr**, as follows:

"9. It is too late in the day to seek reference to any authority for the proposition that while invoking the power under Section 482 Cr.P.C for quashing a complaint or a charge, the Court should not embark upon an enquiry into the validity of the evidence available. All that the Court should see is as to whether there are allegations in the



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complaint which form the basis for the ingredients that constitute certain offences complained of. The Court may also be entitled to see (i) whether the preconditions requisite for taking cognizance have been complied with or not; and (ii) whether the allegations contained in the complaint, even if accepted in entirety, would not constitute the offence alleged.

.....

13. A look at the complaint filed by the appellant would show that the appellant had incorporated the ingredients necessary for prosecuting the respondents for the offences alleged. The question whether the appellant will be able to prove the allegations in a manner known to law would arise only at a later stage....."

The above judgments are squarely applicable to this case and as such, the points raised by the petitioner cannot be considered by this Court under Section 482 Cr.P.C.

10. In view of the above discussion, this Court is not inclined to quash the proceedings in Spl.S.C.No.21 of 2017 on the file of the Mahila Court, Pudukottai.

11. Accordingly, this Criminal Original Petition is dismissed.

Sd/-
Assistant Registrar

// True Copy //

/ /2022
Sub Assistant Registrar(CS)

vsd



To

1. The Mahila Court,
Pudukottai.

2. The Inspector of Police,
Ganeshnagar Police Station,
Pudukottai.

3. The Additional Public Prosecutor,
Madurai Bench of Madras High Court,
Madurai.

CrI.O.P (MD) No.7500 of 2022
22.04.2022

SP/30/05/2022/5P/4C