



BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT
DATED:02.09.2022

CORAM:

THE HONOURABLE MR.JUSTICE V.SIVAGNANAM

Crl.O.P.(MD) No.15355 of 2022

WEB COPY

1. Selvaraj,
2. Velusamy,
3. Banumathi,
4. Sivanupandian,
5. Thayathal,

: Petitioners/A1 to A5

Vs

1. The State represented by
The Inspector of Police,
All Women Police Station,
Sanakarankovil,
Tirunelveli District.
Crime No. 07/2019.

: 1st Respondent/Complainant

2. BS Devanand,
Child Welfare Officer,
Child Welfare Unit,
Tirunelveli

: 2nd Respondent/Defacto
Complainant

3. Xxxx

: 3rd Respondent/Victim

PRAYER: Criminal Original Petition filed under Section 482 Cr.P.C. praying to call for the records and quash the proceedings in Spl C.C No. 85 of 2020 on the file of the Special Judge for POCSO Act cases, Tirunelveli.

For Petitioners	: Mr.Prabhu.K,
For R1	: Mr.A.Albert James, Government Advocate (Crl.Side)
For R2	: Mr.S.Senthil Sankaranathakumar

ORDER

The Criminal Original Petition has been filed to quash the Charge Sheet in Spl C.C No. 85 of 2020 on the file of the learned Special Judge for POCSO Act cases, Tirunelveli, for the offences punishable under Sections 9, 10, 11 of Prohibition of Child Marriage Act, 2006 and Sections 6, 5(n), 5(i), 5(j)(ii) and 17 of Protection of Child from Sexual Offences Act, 2012, in Crime No.7



2.The case of the prosecution is that when the second respondent on his field work, he found that the first petitioner with the help of the accused Nos. 2 and 3 married the victim girl. At the time of marriage, she was aged about 16 years. Hence the complaint.

3.The learned Counsel appearing for the petitioners submitted that the victim and the petitioners are relatives. Now they settled the matter out of Court. Further, a copy of the Marriage Certificate is also filed along with this petition. Now, the victim girl did not like to continue the proceedings against the petitioners.

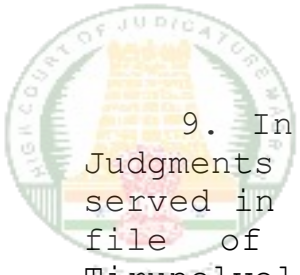
4.The learned Government Advocate(Crl.Side) submitted that in this case, the victim girl is not the complainant. The Child Welfare Officer/second respondent is the complainant. The child born out of the wedlock of the first petitioner and the third respondent, was given to someone as adoption. Under these circumstances, he objected to record the compromise.

5.The case is under trial. By passage of time, the parties have decided to bury their hatchet and compromise the dispute amicably among themselves.

6. A Joint Memo of Compromise has been filed before this Court which have been signed by the petitioners and the third respondent and also by their respective counsel. The petitioners and the third respondent were also present in person before this Court and they were identified by Mrs.R.Uma Maheswari, SSI of Police, All Women Police Station, Sankarankovil as well as by the learned Counsels appearing for the parties. This Court also enquired both the parties and was satisfied that the parties have come to an amicable settlement between themselves.

7. In the instant case, the dispute is of personal in nature and the parties had compromised. Where the parties have compromised the matter, the High Court has to power to quash the complaint for the offence under Sections 9, 10, 11 of Prohibition of Child Marriage Act, 2006 and Sections 6, 5(n), 5(i), 5(j)(ii) and 17 of Protection of Child from Sexual Offences Act, 2012.

8. The legal position expressed by the Hon'ble Apex Court in the case of **Gian Singh vs. State of Panjab and another** reported in (2012)10 SCC 303 and **Parbathbhai Aahir @ Parbathbhai Vs. State of Gujrath** reported in (2017)9 SCC 641 were taken into consideration.



9. In the light of the guidelines issued in the above said Judgments of the Hon'ble Apex Court, no useful purpose will be served in keeping the proceedings in Spl C.C No. 85 of 2020 on the file of the learned Special Judge for POCSO Act cases, Tirunelveli, even though, the offences involved are not compoundable in nature.

10. Accordingly, this Criminal Original Petition stands allowed and as a sequel, the proceedings in Spl C.C No. 85 of 2020 on the file of the learned Special Judge for POCSO Act cases, Tirunelveli is quashed and the terms of joint compromise memo shall form part and parcel of this order.

Sd/-

Assistant Registrar (AS)

// True Copy //

/09/2022

Sub Assistant Registrar (CS)

lr

ENCL : JOINT COMPROMISE MEMO

To

1.The Special Judge,
Special Court for POCSO Act Cases, Tirunelveli.

3.The Inspector of Police,
All Women Police Station,
Sanakarankovil,
Tirunelveli District.

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

+1 CC to M/s.K.PRABHU, Advocate (SR-42611[F] dated 02/09/2022)

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USK/16.09.2022/3P/5C