



BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

RESERVED ON : 04.02.2022

PRONOUNCED ON : 25.04.2022

CORAM

WEB COPY

THE HONOURABLE MR.JUSTICE G.R.SWAMINATHAN

Crl.O.P.(MD)No.19352 of 2021

Mohamed Iskaq

... Petitioner / Sole Accused

Vs.

1. The State rep. By,
The Inspector of Police,
Kadayanallur police station,
Kadayanallur,
Tenkasi District.
(Crime No.85 of 2021)

... 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 in connection with the case in Crime No.85 of 2021 on the file of the Inspector of Police, Kadayanallur police station, Kadayanallur, Tenkasi District, against the petitioner and quash the same.

For Petitioner	: Mr.L.George Paul Anto
For R-1	: Mr.M.Sakthi Kumar, Government Advocate (Crl.Side).
For R-2 & R-2	: Mr.B.Mahendra Rajan

* * *

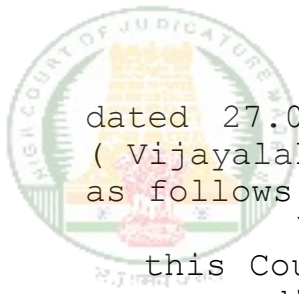
ORDER

This criminal original petition has been filed to quash the impugned First Information Report.

2. It is seen that the petitioner and the victim have got married to each other and the marriage has also been registered. The victim has also delivered a child in the meanwhile. When the petitioner and the victim and the child are living under one roof, continuing the impugned prosecution would only ruin the life of both.

3. 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 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 First Information Report. This criminal original petition is allowed.

Sd/-

Assistant Registrar (R)

// True Copy //

/ /2022

Sub Assistant Registrar(CS)

PMU



To:

1. The Inspector of Police,
Kadayanallur police station,
Kadayanallur,
Tenkasi District.

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

+1CCtoM/s.L.GEORGE PAUL ANTO, Advocate (SR-21221[F]dated 26/04/2022)

ORDER MADE IN
Crl.O.P. (MD) No.19352 of 2021
25.04.2022

PKP/01.06.2022/3P/4C