



WEB COPY

BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

RESERVED ON: 04.02.2022

PRONOUNCED ON: 13.04.2022

CORAM:

THE HONOURABLE MR.JUSTICE G.R.SWAMINATHAN

Crl.O.P (MD) No.20372 of 2021

and

Crl.M.P. (MD) No.11570 of 2021

P.Chinipriya

... Petitioner / Accused No.2

Vs

1.The State rep. by the
Inspector of Police,
Veerapandi Police Station,
Theni District.

... Respondent / Complainant

2.Shanmuga Vadivu
Theni District Social Welfare Officer,
Theni District.

... Respondent /
Defacto Complainant

PRAYER: Petition filed under Section 482 Code of Criminal Procedure, to call for the records pertaining to the impugned FIR in Crime No.472 of 2020, dated 11.05.2020 on the file of the first respondent police and quash the same.

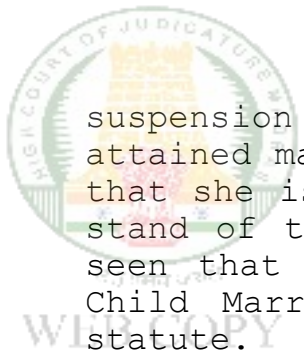
For Petitioner	: Mr.N.Karthik Kannan
For Respondents	: Mr.M.Sakthi Kumar
	Government Advocate (crl.side)

ORDER

This Criminal Original Petition has been filed for quashing the FIR in Crime No.472 of 2020 registered on the file of the first respondent for the offences under Sections 8 & 9 of Child Marriage Restraint Act, 1929.

2. The case of the prosecution is that the petitioner / mother of the victim had arranged the marriage between the victim and the accused on 05.05.2020 at Kamatchiamman Temple. Based on the information given by the District Social Welfare Officer, Theni District, FIR came to be registered.

3. The second accused is the petitioner before this Court. She is an Anganwadi worker. On account of the registration of the impugned FIR, she was suspended from service on 26.05.2020. Her



suspension has not been revoked till date. The victim has since attained majority. The victim appeared before me and made it clear that she is not going to support the prosecution. In view of the stand of the victim, chances of conviction are bleak. It is also seen that Child Marriage Restraint Act, 1929 was repealed by the Child Marriage Act, 2006. FIR was registered under the repealed statute. The first accused has also got re-married. The alleged marriage with the petitioner's daughter was not consummated.

4. The learned Government Advocate (Crl.side) submitted that final report has been filed. But it is yet to be taken on file by the court below. Even if the trial takes place, prosecution would be under an obligation to prove that the marriage took place and that the victim was a minor. While establishing the age of the victim is not going to be difficult when the victim herself made up her mind not to support the prosecution, it would be impossible for the prosecution to prove that the marriage was conducted.

5. The petitioner hails from a very poor economic background. It appears that her husband is not supporting her. She is having two girl children including the victim to support and maintain. The petitioner is not getting subsistence allowance. Taking note of these aspects, particularly the fact that chances of conviction are bleak, continuance of the impugned prosecution is not warranted. Quashing the impugned prosecution would serve the ends of justice. The impugned prosecution is quashed. The benefit of this order will enure in favour of the non-petitioning accused also. This Criminal Original Petition is allowed. Consequently, connected miscellaneous petition is closed.

Sd/-

Assistant Registrar (CO)

// True Copy //

/ /2022

Sub Assistant Registrar(CS)

rmi

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 Inspector of Police,
Veerapandi Police Station,
Theni District.

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



2. Theni District Social Welfare Officer,
Theni District.

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

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+1 CC to M/s.N. KARTHIK KANNA, Advocate (SR-19119[F] dated
18/04/2022)

Crl.O.P (MD) No.20372 of 2021
13.04.2022

RD(11.05.2022) 3P 5C