



BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

DATED: 04.01.2022

CORAM:

THE HONOURABLE MR. JUSTICE G.R. SWAMINATHAN

CrI.O.P (MD) No.20883 of 2021

Prabhu Raj

... Petitioner/Accused(Sole)

Vs

1.The State rep. by
The Inspector of Police,
Tallakulam Police Station,
Madurai City.
(Crime No.2176 of 2018)

... Repondent/Complainant

2.Subbiah

... Respondent/Defacto Complainant

PRAYER: Petition filed under Section 482 Code of Criminal Procedure, to call for the entire records pertaining to the case in Spl.S.C.No.149 of 2019 pending on the file of the learned District and Sessions Judge (Mahila) Mahalir Neethi Mandram, Madurai and quash the same.

For Petitioner : Mr.C.Anand

For R1 : Mr.A.Albert James

Government Advocate (CrI.)

For R2 : Mr.S.Balaji

ORDER

This Criminal Original Petition has been filed to quash the proceedings in Spl.S.C.No.149 of 2019 on the file of the District and Sessions Judge (Mahalir Neethimandaram), Madurai.

2. The petitioner and the victim have got married to each other on 12.10.2018. A male child was also born on 07.07.2019. The petitioner's name is mentioned in the birth certificate as the father of the child. The victim has been mentioned as the mother of the child. The parties are now leading a happy matrimonial life under one roof.

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 Gujarath reported in 2017 9 SCC 641 and in the case of The



State of Madhya Pradesh Vs. Dhruv Gurjar and another reproted 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.

5. This Criminal Original Petition is allowed.

Sd/-

Assistant Registrar (P&A)

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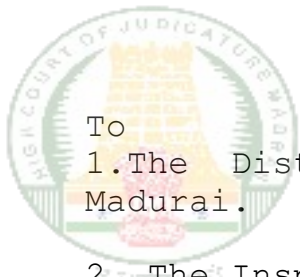
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Sub Assistant Registrar(CS)

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 District and Sessions Judge (Mahila) Mahalir Neethi Mandram,
Madurai.

2.The Inspector of Police,
Tallakulam Police Station,
Madurai City.

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

+1 CC to M/s.C.ANAND, Advocate (SR-86[F] dated 04/01/2022)

CrI.O.P (MD)No.20883 of 2021
04.01.2022

BK (CO)

KB (25.01.2022) 3P 5C