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Crl.O.P.(MD) No.21116 of 2022

BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

DATED: 30.11.2022

CORAM

THE HON'BLE MR.JUSTICE **SATHI KUMAR SUKUMARA KURUP**

CRL.O.P(MD)No.21116 of 2022

Rajkumar

...Petitioner

-VS-

1.State represented by
The Inspector of Police,
Kandavarayanpatti Police Station,
Sivagangai District.
(in Cr.No.18 of 2019)

2.Shanthi

...Respondents

PRAYER: Criminal Original Petition filed under Section 482 of Cr.P.C, praying to call for the records and to quash the charge sheet in P.R.C.No.3 of 2020, dated 16.09.2019 on the file of the Principal District Munsif cum Judicial Magistrate Court, Thiruppathur, Sivagangai District.

For Petitioner

For R1

For R2

: Mr.R.Ilayarajan

: Mr.B.Nambi Selvan

Additional Public Prosecutor

:Mr.P.Mani Anand



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ORDER

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The learned Counsel for the Petitioner submitted that this Petition had been filed seeking to quash the Charge Sheet in P.R.C.No.3 of 2020 on the file of the learned Principal District Munsif cum Judicial Magistrate Court, Thiruppathur, Sivagangai District.

2.It is the contention of the learned Counsel for the Petitioner that the Petitioner was arrayed as accused in the case for the offence under Sections 376(A) IPC r/w Sections 9 and 10 of Child Marriage Restraint Act, 2006. It is the further submission of the learned Counsel for the Petitioner that the victim and the Petitioner was married on attaining the age of majority.

3.Mr.B.Nambi Selvan, learned Additional Public Prosecutor objected to the same stating that at the time of marriage and delivery of the child, the victim had not attained the age of majority. Therefore, the provisions of Sections 9 and 10 of Child Marriage Restraint Act, 2006, are attracted. Till date, the marriage is not registered, even though the Petitioner and the victim claim that they are married.



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4.However, the learned Counsel for the Petitioner furnished before this Court, PICME card issued by the Government of Tamil Nadu regarding the status of pregnancy of the victim and submitted that at time of issuance of PICME card, the victim was aged about 19 years. He further submitted that the Petitioner and victim now living as husband and wife and now they are having two children.

5.If the Petitioner is convicted, the family environment will suffer damage, particularly, the children will lose parental care and the affection of their father. If this Petition is dismissed, it will amount to harass the Petitioner for a long time unnecessarily to stand trial for the offence under the Child Marriage Restraint Act, 2006. Therefore, exercising the extraordinary power under Section 482 Cr.P.C., the case against the Petitioners herein, is to be quashed. The Honourable Supreme Court in the case of ***K.Dhandapani vs the State by the Inspector of Police in Crl.Appeal No.796 of 2022***, held as follows:

"7. In the peculiar facts and circumstances of this case, we are of the considered view that the conviction and sentence of the Appellant who is maternal uncle of the prosecutrix deserves to be set aside in view of the subsequent events that have been brought to the notice of this Court. This Court cannot shut its eyes to the ground reality and disturb the happy family life of the Appellant and the prosecutrix. We have been informed about the



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custom in Tamilnadu of the marriage of a girl with the maternal uncle."

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6.In the light of the above, this Criminal Original Petition is allowed. The charge sheet in P.R.C.No.3 of 2020, dated 16.09.2019 on the file of the Principal District Musnif cum Judicial Magistrate Court, Thiruppathur, Sivagangai District, is quashed.

In the result, this Criminal Original Petition is allowed.

30.11.2022

Index:Yes/No

cmr

To

- 1.The Principal District Musnif cum Judicial Magistrate,
Thiruppathur, Sivagangai District.
- 2.The Inspector of Police,
Kandavarayanpatti Police Station,
Sivagangai District.
- 3.The Additional Public Prosecutor,
Madurai Bench of Madras High Court,
Madurai.



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SATHI KUMAR SUKUMARA KURUP, J.

cmr

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