



Crl.OP.Nos.1616 of 2021 & 19156 of 2022 and Cont.P.No.1121 of 2022

IN THE HIGH COURT OF JUDICATURE AT MADRAS

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DATED: 07.11.2023

CORAM:

THE HONOURABLE MR.JUSTICE **G.K.ILANTHIRAIYAN**

Crl.OP.Nos.1616 of 2021 & 19156 of 2022 and Cont.P.No.1121 of 2022
and Crl.MP.Nos.948 of 2021, 12670 & 12672 of 2022 and
Sub.Apln(OS).Nos.252 & 253 of 2022

Crl.OP.No.1616 of 2021

1.T.R.Sampath
2.Dharani
3.Santhi
4.Haribabu

... Petitioners

Vs.

1.The State Represented by
Inspector of Police,
Thimiri Police Station,
Ranipet
(Ref.Cr.No.783 of 2020)
2.Ramya

... Respondents

PRAYER:

Criminal original petition is filed under Section 482 of Cr.P.C. to call for the records relating to the case in crime No.783 of 2020 on the file of the first respondent herein and to quash the same as illegal and abuse of process of law.



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Crl.OP.Nos.1616 of 2021 & 19156 of 2022 and Cont.P.No.1121 of 2022

For Petitioners : Mr.I.Abdul Basith
Assisted by Mr.P.Vasanthakumar

For Respondents
For R1 : Mr.A.Gopinath,
Government Advocate(crl.side)

For R2 : No appearance

Crl.OP.No.19156 of 2022

1.Dharani
2.Haribabu
3.T.R.Sampath
4.Santhi

... Petitioners

Vs.

1.The State Represented by
Inspector of Police,
Thimiri Police Station,
Ranipet
(Ref.Cr.No.783 of 2020)
2.Ramya

... Respondents

PRAYER:

Criminal original petition is filed under Section 482 of Cr.P.C. to call for the records of the proceedings in STC.No.167 of 2021 pending on the file of the Special Court for Exclusive Trial of Cases under POCSO Act, Vellore and to quash the same as illegal and without jurisdiction.



Crl.OP.Nos.1616 of 2021 & 19156 of 2022 and Cont.P.No.1121 of 2022

For Petitioners : Mr.I.Abdul Basith
Assisted by Mr.P.Vasanthakumar

For Respondents
For R1 : Mr.A.Gopinath,
Government Advocate(crl.side)

For R2 : No appearance

Cont.P.No.1121 of 2022

1.T.R.Sampath
2.Dharani
3.Santhi
4.Haribabu

...Petitioner

Vs.

Latha,
Inspector of Police,
Thimiri Police Station,
Ranipet (Ref Cr.No.783 of 2020)

...Respondent

PRAYER: Contempt petition filed under Section 11 of the Contempt of Court Act, 1971 to punish the respondent for violating the interim stay order dated 05.02.2021 in Crl.MP.No.948 of 2021 and Crl.OP.No.1616 of 2021 by imposing maximum punishment as contemplated under the Contempt of Courts Act, 1971.

For Petitioners : Mr.I.Abdul Basith
Assisted by Mr.P.Vasanthakumar

For Respondent : Mr.A.Gopinath,
Government Advocate(crl.side)



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COMMON ORDER

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The criminal original petition in Crl.OP.No.1616 of 2021 is filed to quash the proceedings in crime No.783 of 2020 on the file of the first respondent registered for the offences under Sections 363, 312, 341, 323 of IPC and Section 5(1)(j)(ii) r/w 6 of POCSO Act and Section 9, 11 of Prohibition of Child Marriage Act as against the petitioners. The criminal original petition in Crl.OP.No.19156 of 2022 is filed to quash the proceedings in STC.No.167 of 2021 pending on the file of the Special Court for Exclusive Trial of Cases under POCSO Act, Vellore, thereby taken cognizance for the offence under Sections 5(i), 5(j)(ii), 6, 17 & 16 of POCSO Act, Sections 9 & 10 of Child Marriage Restraint Act and Section 376(2)(n) of IPC. The contempt petition in Cont.P.No.1121 of 2022 is filed to punish the respondent for violating the interim stay order dated 05.02.2021 in Crl.MP.No.948 of 2021 and Crl.OP.No.1616 of 2021.

2. Insofar as the criminal original petition in Crl.OP.No.1616 of 2021, it is submitted by the learned Government Advocate(crl.side) appearing for the first respondent submitted that investigation was completed and final report was also filed, which has been taken cognizance in STC.No.167 of 2021



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on the file of the Special Court for Exclusive Trial of Cases under POCSO Act,

Vellore. Therefore, the prayer sought for in the petition has become infructuous. Accordingly, the criminal original petition in Crl.OP.No.1616 of 2021 is dismissed as infructuous. Consequently, connected miscellaneous petitions are closed.

3. Insofar as the criminal original petition in Crl.OP.19156 of 2022, a complaint was lodged by the second respondent and the first respondent registered FIR in crime No.783 of 2020 for the offences under Sections 363, 312, 341, 323 of IPC and Section 5(1)(j)(ii) r/w 6 of POCSO Act and Section 9, 11 of Prohibition of Child Marriage Act on the allegation that the second respondent got married the first petitioner on 15.09.2019. When she got married, she was minor and aged about 17 years. Thereafter, the first accused on compulsion, after tying her hands, had physical relationship. Thereafter, they lived together as husband and wife. She got pregnant and her pregnancy was aborted by administering medicines by the accused. Thereafter, the petitioners came to the house of the defacto complainant and threatened and assaulted her. After conducting detailed investigation, final report was filed and the same has been taken cognizance by the trial court in STC.NO.167 of 2021.



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4. Though notice was served on the second respondent and counsel appeared earlier, today no one appeared on behalf of the second respondent before this Court either in person or through pleader.

5. The learned counsel for the petitioners would submit that the second respondent and the petitioners are close relatives. The marriage between the first petitioner and the second respondent was arranged one and the same was performed after the acceptance of the family members of the second respondent. He also produced photographs of their engagement and the marriage including marriage invitation. It shows that it is an arranged marriage between the first petitioner and the second respondent. In order to prove the age of the second respondent, 12th std mark sheet was produced, which revealed that her date of birth is 28.12.2002. However, both got married and lived together as husband and wife. The doctor who examined the victim also deposed that she got pregnant. Another doctor deposed that there was no evidence to show that already the pregnancy of the second respondent was aborted. On 27.08.2020, the father of the second respondent caused notice to the third petitioner herein who is the father of the first petitioner claiming



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amicable settlement on his 1/7 share in the family property. Therefore, it shows that after the marriage, the second respondent's family members demanded house from the petitioners. When it was refused, the present complaint has been lodged by the second respondent on the ground that at the time of her marriage, she was minor and the first petitioner committed aggravated penetrative sexual assault on her.

6. On perusal of records, it is an arranged marriage between the first petitioner and the second respondent. Though she was minor at the time of marriage, they lived together as husband and wife. In fact, she also got pregnant. Therefore, the impugned proceedings is nothing but after thought and only to wreak vengeance against the petitioners, a false prosecution has been launched against them. It is relevant to rely upon the judgment of the Hon'ble Supreme Court of India in the case of ***State of Haryana Vs. Bhajan Lal and others*** reported in ***1992 SCC (crl) 426***, wherein the Hon'ble Supreme Court of India listed out certain categories of cases including the following one in which the criminal proceedings can be quashed using the inherent jurisdiction of the High Court under Section 482 Cr.P.C.:

(7) where a criminal proceeding is manifestly attended with mala fide and/or where the proceeding is maliciously



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instituted with an ulterior motive for wreaking vengeance on the accused and with a view to spite him due to private and personal grudge."

7. Therefore, the entire proceedings is nothing but clear abuse of process of court and it is liable to be quashed. Accordingly, the entire proceedings in STC.No.167 of 2021 pending on the file of the Special Court for Exclusive Trial of Cases under POCSO Act, Vellore is quashed and the criminal original petition in Crl.OP.No.19156 of 2022 is allowed. Consequently, connected miscellaneous petitions are closed.

8. In view of the above order passed in Crl.OP.No.19156 of 2022, the contempt petition in Cont.P.No.1121 of 2022 is closed. Consequently, connected sub applications are also closed.

07.11.2023

Index :Yes/No

Internet : Yes/No

Speaking order/non-speaking order
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To

- 1.The learned Special Court for Exclusive Trial of Cases under POCSO Act,
Vellore
- 2.Inspector of Police,
Thimiri Police Station,
Ranipet
- 3.Latha,
Inspector of Police,
Thimiri Police Station,
Ranipet
- 4.The Government Advocate,
High Court of Madras



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G.K.ILANTHIRAIYAN, J.

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