



CrI.O.P.No.20035 of 2022

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 22.06.2023

CORAM

THE HONOURABLE MR.JUSTICE M.NIRMAL KUMAR

CrI.O.P.No.20035 of 2022

J.Joshua Johnson

... Petitioner

Vs.

1.State Rep by  
The Inspector of Police,  
W-6 All Women Police Station,  
Ayanavaram,  
Chennai.

2.A.Muni @ Muniappan

... Respondents

PRAYER: Criminal Original Petition is filed under Section 482 of the Code of Criminal Procedure, to accept my affidavit and give a quietus to the issue by quashing the proceedings pending against my husband in SPL.S.C.No.85/2020 on the file of the Sessions Judge, Special Court for Exclusive Trial of cases under POCSO Chennai.

|                |   |                                                      |
|----------------|---|------------------------------------------------------|
| For Petitioner | : | Mr.M.Janani for<br>Mr.D.Ashokkumar                   |
| For R1         | : | Mr.A.Gokulakrishnan,<br>Additional Public Prosecutor |

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ORDER

The petitioner, who is facing trial in Special S.C.No.85 of 2020,  
for offence under Section 4 of Protection of Children from Sexual



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Offence Act, 2012 and Sections 9, 10 & 11 of the Prohibition of Child Marriage Act, 2006, has filed this Criminal Original Petition.

2.Gist of the case is that on 11.05.2019, the 1<sup>st</sup> respondent received the complaint from the 2<sup>nd</sup> respondent, who is the father of the victim girl, who was studying Nursing in IIT Nursing College, Thiru.Vi.Ka Nagar, Chennai, her date of birth is 19.01.2002. She and petitioner had developed friendship and love affair between them. Thereafter, they had physical relationship, as a result, she got pregnant which she concealed. Later, the victim girl's mother came to know about the same, shouted at her and came to know that the petitioner is the reason for the same. Thereafter, marriage was solemnized between the petitioner and the victim girl and they were living as husband and wife in Ayanavaram, Chennai. When the victim girl was eight months pregnant, she was sent to her parents home for delivery and only on two occasions, the petitioner came and visited the victim girl. On 20.04.2019, the victim girl developed pain, got admitted in Kilpauk Medical College and Hospital, Chennai and gave birth to a stillborn baby. The petitioner failed to visit the hospital and enquire about the baby and health of his



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wife. Later, on the compulsion of the father of the victim girl/2<sup>nd</sup> respondent, came to the hospital, signed the requisite documents and left the place leaving behind stillborn baby with the 2<sup>nd</sup> respondent. The petitioner not participated in any of the ceremonies and failed to take back his daughter/victim girl to the matrimonial home. Hence, the 2<sup>nd</sup> respondent lodged a complaint to the 1<sup>st</sup> respondent Police. On the complaint, a case has been registered in Crime No.11 of 2019 for offence under Section 4 of the Protection of Children from Sexual Offence Act, 2012 and Section 9, 10 & 11 of the Prohibition of Child Marriage Act, 2006. On completion of investigation, charge sheet filed before the learned Sessions Judge, Special Court for Exclusive Trial of Cases under POCSO Act, Chennai listing 11 witnesses and documents.

3.At this stage, this Quash Petition filed on the ground that now, the dispute between the petitioner and the 2<sup>nd</sup> respondent's daughter resolved and they are living as husband and wife. The petitioner's wife/daughter of the 2<sup>nd</sup> respondent given birth to a female child named Jerlin on 07.03.2022.



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4.Learned counsel for the petitioner submitted that the petitioner and the 2<sup>nd</sup> respondent's daughter/victim girl were in love with each other and they got married when the victim girl was eight months pregnant. She had gone to her parents home where she developed some stomach pain and she was taken to Kilpauk Medical College and Hospital, Chennai where she gave birth to a stillborn baby. The petitioner was under the impression that it was due to improper care by her parents. The petitioner was very much dejected and emotionally upset. Hence, the petitioner quarrelled with the 2<sup>nd</sup> respondent. Enraged for the same, the above complaint given by the 2<sup>nd</sup> respondent.

5.Learned counsel further submitted that the 2<sup>nd</sup> respondent and his family members accepted the relationship between the petitioner and the 2<sup>nd</sup> respondent's daughter. There seems to be some difference of opinion. Since the petitioner is a Christian and his wife was a Hindu, there was some cultural obstacle. Infact, the petitioner's family had only conducted the marriage in a Church in the manner befitting the status. After registration of the case, the petitioner's wife/victim girl reconciled to the reality and joined the petitioner. Now, they are leading happy



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matrimonial life, out of their matrimonial life, the victim girl given birth to a girl baby named Jerlin on 07.03.2022 at Kilpauk Medical College and Hospital, Chennai. In proof of the same, the Birth Certificate of the baby produced and further, Compromise Affidavits of the petitioner, 2<sup>nd</sup> respondent and petitioner's wife filed. Hence, he sought for quashing of the proceedings.

6.Learned Additional Public Prosecutor appearing for the 1<sup>st</sup> respondent Police submitted that on the complaint of the 2<sup>nd</sup> respondent, a case in Crime No.11 of 2019 was registered and thereafter, investigation taken up. During investigation, the 2<sup>nd</sup> respondent, his daughter/victim girl and his son were examined, they admitted the love affair and marriage between the petitioner and victim girl, due to some difference of opinion, the petitioner and his wife got separated. LW4 and LW5 state about the arrest and confession of the petitioner. LW6 and LW7 are the Constables attached to the respondent Police who produced the petitioner for potency test. LW8, the Women Police Constable accompanied the victim girl for medical examination. LW9 and LW10 are the Doctors, who examined the victim girl as well as petitioner.



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LW11 is the Investigating Officer. With their statements and materials collected, charge sheet has been filed before the trial Court.

7.Learned Additional Public Prosecutor fairly submitted that the victim girl appeared before the respondent Police along with her father/2<sup>nd</sup> respondent and confirmed that now, she joined the petitioner and leading a happy matrimonial life and they were blessed with a female child Jerlin. The 2<sup>nd</sup> respondent gave a letter seeking withdrawal of the case against the petitioner since the pendency of the case would only disturb and affect her matrimonial life and it will cause more harm than doing any good.

8.Today, the petitioner, the 2<sup>nd</sup> respondent and petitioner's wife were identified by Ms.Devika, Inspector of Police attached to the 1<sup>st</sup> respondent Police. The 2<sup>nd</sup> respondent appeared before this Court along with his daughter and submitted that he intends not to proceed with the case and sought for withdrawal of the case. He confirmed that his daughter is living with the petitioner who also given birth to a female child Jerlin. Due to some misunderstanding earlier he lodged the



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complaint against the petitioner. Now, he is not interested to pursue the case and confirmed the compromise affidavit filed by him as well as his daughter/victim girl. Added to it, the petitioner's wife reiterated the compromise affidavit filed by her before this Court and submitted that she is living with the petitioner happily and out of their matrimonial life, she given birth to female baby Jerlin.

9.Considering submissions and on perusal of the materials, it is seen that now the petitioner and the victim girl are living happily together as husband and wife and they are blessed with a female child Jerlin, on 07.03.2022. In order to confirm the compromise, the 2<sup>nd</sup> respondent and his daughter/victim girl filed affidavit before this Court.

10.The Hon'ble Apex Court in the case of “***K.Dhandapani Versus State by the Inspector of Police*** reported in ***2022 SCC OnLine SC 1056***” considering the victim therein has two children and they are being taken care by the appellant and she is leading a happy married life, held that '*this Court cannot shut its eyes to the ground reality and disturb the happy family life of the appellant and the prosecutrix*'. Now, the present



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issue herein is on the same footing, earlier due to some difference of opinion, the petitioner left her wife/victim girl and thereafter, after registration of the case and filing of charge sheet now, they joined together living as husband and wife and blessed with a female baby Jerlin. In view of the subsequent development and issues getting resolved, this Court is not inclined to disturb the happy family life of the petitioner and his wife/victim girl. Real justice could be done if the case is quashed.

11.In the light of the above decision and considering the fact that the petitioner is properly taking care of his wife and newly born baby, this Court quashes the proceedings in Special S.C.No.85 of 2020, on the file of the Mahila Court/Special Court for Exclusive Trial of Cases under POCSO Act, Chennai. Hence, this Criminal Original Petition is allowed.

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Index: Yes/No  
Internet: Yes/No  
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To  
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- 1.The Special Court for Exclusive Trial of  
Cases under POCSO Act,  
Chennai.
- 2.The Inspector of Police,  
W-6 All Women Police Station,  
Ayanavaram,  
Chennai.
- 3.The Public Prosecutor,  
High Court, Madras.



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M.NIRMAL KUMAR, J.  
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