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Crl.OP.No.19231 of 2021

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 09.11.2023

CORAM:

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

Crl.OP.No.19231 of 2021
and Crl.MP.Nos.10524 & 10525 of 2021

Manikandan

... Petitioner

Vs.

1.The State

Rep. By the Inspector of Police,
Podhanur Police Station,
Coimbatore City

2.Chennamma

... Respondents

PRAYER: Criminal original petition is filed under Section 482 of Cr.P.C. to call for the records in Spl.CC.No.86 of 2020 in crime No.1191 of 2020 on the file of Special Court for POCSO Act, Coimbatore and to quash the same.

For Petitioner

: Mr.Ramesh Kumar Chopra

For Respondents

For R1

: Mr.A.Gopinath,
Government Advocate(Crl.side)

For R2

: No appearance

ORDER

This Criminal Original Petition has been filed to quash the proceedings in Spl.CC.No.86 of 2020 in crime No.1191 of 2020 on the file of Special Court for POCSO Act, Coimbatore, thereby taken cognizance for the



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offences under Section 366 of IPC, Section 9 of Prohibition of Child Marriages Act, Sections 3(1)(w)(i), 3(2)(va), 9(1) and 10 of Protection of Child from Sexual Offences Act, 2012, as against the petitioner.

2. The crux of the complaint is that the petitioner kidnapped the victim girl in the pretext of love affair and got married. Thereafter, he had sexual intercourse with the minor girl. Initially, a girl missing complaint was registered in crime No.1191 of 2020. After completion of investigation, final report was filed for the offence under Section 366 of IPC, Section 9 of Prohibition of Child Marriages Act, Sections 3(1)(w)(i), 3(2)(va), 9(1) and 10 of Protection of Child from Sexual Offences Act, 2012.

3. The learned counsel for the petitioner pointed out that the victim girl deposed while recording her statement under Section 164 of Cr.P.C that she had stayed in her grandmother's house and she does not know the petitioner. That apart, now both got married and are living together happily. In fact, she also got pregnant and is about to deliver a baby.

4. Heard, the learned counsel appearing for the petitioner.

5. On perusal of statement recorded under Section 161 of Cr.P.C.



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revealed that both the petitioner as well as the minor victim girl fell in love and eloped to his friend's house. There, they got married in front of a temple and stayed in the same room. However, the victim girl did not permit the petitioner to have sexual intercourse. Next day, she was rescued and she came to her parents' house. Thereafter, the minor victim girl was subjected for medical examination. The doctor deposed that the victim girl was minor at the time of examination. She opined that her physical and mental status are normal and her primary and secondary sexual characters are well developed. Her hymen was found intact. There is no evidence of any foreign body noted anywhere in the body. The victim has no evidence of any recent forcible vaginal sexual act. There are no physical injuries present in the body. Further swab and smear did not detect any spermatozoa. Therefore, there is absolutely no evidence to show that the petitioner had sexual intercourse and no evidence to show that the victim girl had sexual intercourse with anybody. Her hymen was also intact. On one hand, the prosecution relied upon the statement recorded under Section 164 of Cr.P.C saying that she did not know the petitioner and she had never seen him.

6. On the other hand, the prosecution relied upon the statement recorded under Section 161 of Cr.P.C and she deposed that both fell in love and



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got married. Thereafter, they stayed in a room and there was no sexual relationship between them. Next day, on the police complaint, she herself went to her parents' house. That apart, now both got married and are living together. Therefore, further proceedings in Spl.CC.No.86 of 2020 is nothing but empty formality. In order to meet the ends of justice, the further proceedings in Spl.CC.No.86 of 2020 cannot be sustained and the same is liable to be quashed.

7. Accordingly, the entire proceedings in Spl.CC.No.86 of 2020 on the file of Special Court for POCSO Act, Coimbatore is quashed and this criminal original petition is allowed. Consequently, connected miscellaneous petitions are closed.

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Index :Yes/No

Internet : Yes/No

Speaking order/non-speaking order
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To



CrI.OP.No.19231 of 2021

- 1.The Special Court for POCSO Act,
Coimbatore
- 2.Inspector of Police,
Podhanur Police Station,
Coimbatore City
- 3.The Government Advocate,
High Court of Madras

G.K.ILANTHIRAIYAN, J.

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