



IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 20-10-2023

CORAM

THE HONOURABLE DR. JUSTICE G.JAYACHANDRAN

Crl. OP No.22713 of 2023

S.Elayaraja

... Petitioner

Vs.

1.The State Represented by
The Inspector of Police,
All Women Police Station,
Chengam,
Tiruvannamalai District.

... R-1/Complainant

2.M.Elumalai

... R-2/Defacto Complainant

Prayer: Criminal Original Petition has been filed under Section 482 of the Code of Criminal Procedure, to call for the records in charge sheet in Special SC No.35 of 2019, pending on the file of the Special Court for Exclusive Trial of Cases under POCSO Act, Tiruvannamalai and to quash the same.

For Petitioner

: Mr.B.Jawahar

For Respondent-1

: Mr.S.Udayakumar,
Government Advocate



WEB COPY



(Criminal Side).

ORDER

The petitioner is the sole accused in Special SC No.35 of 2019.

A case has been filed under Sections 376, 506(1), 354 of IPC and Sections 4 and 6 of POCSO Act.

2. Based on the complaint given by the father of the minor victim girl that the petitioner has impregnated his minor daughter, a case against the petitioner was registered and the male child born to the victim girl was tested for DNA mapping and found that the petitioner is the biological father of the child born to the victim minor girl. The age of the minor victim girl at the time of occurrence, was about 14 years.

3. The quash petition is filed on the ground that the victim minor girl and the accused were in love and when the girl was four months pregnant, the fact came to the knowledge of the victim girl's father, who had lodged a complaint with the police. After registration of the complaint also, they both continue to live as husband and wife and a male child has been born to them.



4. To show that they are living as husband and wife, the marriage was subsequently solemnised. Copies of Aadhar Cards of the petitioner and his wife were produced and in order to show that they got married and the marriage was duly registered, the copy of the Marriage Registration Certificate is furnished.

5. From the records furnished before this Court, this Court finds that the date of birth of the minor girl is 17.06.2002. The marriage got registered on 12.09.2023 at the Marriage Registrar Office, Thaanipadi, Tiruvannamalai District.

6. No doubt, at the time of occurrence, the girl was minor. The DNA test clearly shows that the petitioner is the biological father of the child born to the minor girl. But by efflux of time, the petitioner and the victim girl were in love and indulged in premarital sexual relationship.

7. The offence committed by the petitioner though was consensual, he is liable to be punished under the respective Act.



8. The solemnisation of the marriage on 12.09.2023, the birth of a male child, the joint living of the accused with the victim girl and the child born to them, warrant interference of this Court to exercise its power under Section 482 of the Code of Criminal Procedure and to quash the further proceedings pending in Special SC No.35 of 2019 on the file of the Special Court for Exclusive Trial of Cases under POCSO Act, Tiruvannamalai.

9. For the reasons stated above, the case pending in Special SC No.35 of 2019 on the file of the Special Court for Exclusive Trial of Cases under POCSO Act, Tiruvannamalai stands quashed and consequently, the present Criminal Original Petition stands allowed.

20-10-2023

Index : Yes/No
Internet: Yes/No
Speaking order/Non-Speaking order
Neutral Citation : Yes/No
Svn



WEB COPY

To

- 1.The Special Court for Exclusive Trial of Cases under POCSO Act,
Tiruvannamalai.
- 2.The Inspector of Police,
All Women Police Station,
Chengam,
Tiruvannamalai District.
- 3.The Public Prosecutor,
High Court of Madras,
Chennai.

Crl.OP No.22713 of 2





WEB COPY

Crl.OP No.22713 of 2



DR.G.JAYACHANDRAN, J.

Svn

Crl. OP 22713 of 2023

20-10-2023