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CrI.O.P.No.29374 of 2022

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 21.06.2023

CORAM

THE HONOURABLE MR.JUSTICE M.NIRMAL KUMAR

CrI.O.P.No.29374 of 2022

Elanchezhiyan

... Petitioner

Vs.

1.State Rep. by
The Inspector of Police,
Kaikalathur Police Station,
Perambalur District.
(Cr.No.404/2017).

2.Anju

... Respondents

PRAYER: Criminal Original Petition is filed under Section 482 of the Code of Criminal Procedure, to call for the entire records in connection with the impugned proceedings in Spl.S.C.No.27 of 2022 on the file of the Learned Sessions Judge, Mahila Court, Perambalur and quasht the same.

For Petitioner : Mr.M.Vijaya Ragavan
For R1 : Mr.A.Gokulakrishnan
Additional Public Prosecutor

ORDER

The petitioner/accused in Special S.C.No.27 of 2022 facing trial for offence under Sections 294(b), 323, 448, 342 & 307 of IPC and



CrI.O.P.No.29374 of 2022

Sections 11(1), 11(4) & 12 of the Protection of Children from Sexual Offence Act, 2012, has filed this Quash Petition.

2.Gist of the case is that the victim girl/2nd respondent, who was minor at the time of occurrence, lodged the complaint on 29.08.2017 stating that she was studying first year B.Com in Arumugham Arts and Science College, Thozhuthur. The petitioner/accused is a resident of Perangiyam Village, Thittakudi Taluk, Perambalur District. During college holidays, the 2nd respondent and her elder sister used to visit her maternal grandmother at Perangiyam Village. She also used to visit her maternal uncle and Aunt in the same village and stay there during holidays. During that time, the petitioner, who was residing near the maternal grandmother's house, used to torture her stating that he is in love on her. The 2nd respondent refused the same stating that she is a minor. Since his harassment and torture continued, the 2nd respondent's Uncle and Aunt warned the petitioner, the 2nd respondent stopped visiting her maternal grandmother's house. This being so, on 29.08.2017, the 2nd respondent's mother and elder sister were in the field leaving the 2nd respondent alone at home, at about 05.00 p.m., the petitioner barged into



CrI.O.P.No.29374 of 2022

WEB COPY

the house of 2nd respondent, closed the door and started to harass the 2nd respondent. The petitioner proclaimed that if he does not get the victim, no one can have her, saying so, he strangled her using Duppata worn by her and caused severe pain and marks on her neck. At that time, the 2nd respondent's mother and elder sister returned home, on seeking them, the petitioner escaped from the scene. Though he was chased by others, he could not be caught. The 2nd respondent informed about the happenings and pain suffered by her and native treatment given. Since the pain got aggravated, she was taken to the Government Hospital, Perambalur and took treatment. From the hospital, information was sent to the 1st respondent.

3.LW12, Sub Inspector of Police attached to the 1st respondent Police Station came to the hospital on 02.09.2017, received the complaint, registered FIR in Crime No.404 of 2017, for offence under Sections 447, 294(b) and 323 and Section 4 of the Tamil Nadu Prohibition of Women Harassment Act, 2002. Thereafter, LW12 visited the scene of occurrence, prepared the Observation Mahazar in presence of LW7 and LW8, enquired the 2nd respondent, her mother/LW2, elder



CrI.O.P.No.29374 of 2022

WEB COPY

sister/LW3 and one Suresh/LW4. LW5 and LW6 are Uncle and Aunt of the 2nd respondent, who stated about the harassment caused by the petitioner. The Doctor who treated the 2nd respondent was examined and medical records collected. The 2nd respondent was produced before the Judicial Magistrate and statement under Section 164 Cr.P.C. recorded. In the meanwhile, the petitioner obtained bail and he was produced before the Doctor for potency test and potency certificate obtained. Finding that the 2nd respondent was a minor at the time of occurrence, Alteration Report filed including the offences under the provisions of Protection of Children from Sexual Offence Act, 2012. On collection of evidence and materials, charge sheet filed before the learned Sessions Judge, Mahila Court, Perambalur.

4.Learned counsel for the petitioner submitted that both the petitioner and the 2nd respondent hail from the same social background. The petitioner was having friendly relationship with the 2nd respondent, which was opposed by her family. Due to which, she stopped talking with the petitioner, which was questioned by him. Enraged over the same, the petitioner pulled her by Dupkata without any bad intention in a



CrI.O.P.No.29374 of 2022

fit of rage. The admitted case of the prosecution is that the petitioner not touched the 2nd respondent in any manner and the petitioner was only showing his anger towards the 2nd respondent. Though it is projected that mark on the neck of the 2nd respondent was due to the petitioner pulling her forcibly, no such marks found in the medical records. The Doctor opined that it is only simple injury. The 2nd respondent family to teach the petitioner a lesson, had given a exaggerated version implicating the petitioner in a case of serious offence.

5.Learned counsel further submitted that after the incident, the petitioner not disturbed the 2nd respondent in any manner, now both on their own path of life. The 2nd respondent got married with another person and she is settled with her family. The petitioner got married and having a small one year baby and living with his family. Both of them got married and leading their life independently. At the intervention of elders and also considering the petitioner turning into a new life and leading his life peacefully, not disturbing the 2nd respondent, the 2nd respondent and her family had come forward to amicably resolve the issue and to withdraw the case, not to further proceed with the above



CrI.O.P.No.29374 of 2022

WEB COPY

case. In support of contention, the petitioner and the 2nd respondent filed a Joint Compromise Memo along with this petition.

6.Learned Additional Public Prosecutor appearing for the 1st respondent submitted that on the complaint of the 2nd respondent, a case was registered initially only under IPC offences, later finding that the 2nd respondent is a minor at the time of occurrence, the offence under the provisions of Protection of Children from Sexual offence Act, 2012 has been included. He further submitted that the petitioner and the 2nd respondent got married separately and leading their independent life. The 2nd respondent appeared before the 1st respondent Police, informed that she is not interested in further pursuing the case and wanted the case to be quashed since she has got married and leading a happy married life with her husband in Chennai. The pendency of the above case, would only cause harassment and unnecessary problem in her married life. He further submitted that the copy of the Joint Compromise Memo submitted to the Police, who verified the same, the 2nd respondent confirmed her intention not to proceed with the case.



CrI.O.P.No.29374 of 2022

WEB COPY

7.He further submitted that the 2nd respondent was only four months short of attaining majority at the time of occurrence and she was 17 years and 7 months old studying first year B.Com in Arumugham Arts and Science College, Thozhuthur. Now, she completed her B.Com degree, initially employed in Coimbatore and later, she got married and staying with her husband in Chennai, leading a happy married life.

8.Today, before this Court, both the 2nd respondent and the petitioner appeared and confirmed the Joint Compromise. Further, both filed affidavits to compound and close the case in Special S.C.No.27 of 2022. The 2nd respondent was enquired and she reaffirmed her intention not to proceed with the above case. Both the petitioner and the 2nd respondent identified by Mr.S.Raja, Sub Inspector of Police attached to the 1st respondent Police Station.

9.On considering the submissions and on perusal of the materials, it is seen that now, the petitioner got married with the another lady and he has one year old baby. The 2nd respondent got married and she is leading a happy married life in Chennai. In unequal terms, the 2nd



CrI.O.P.No.29374 of 2022

respondent reaffirmed her intention not to proceed with the case and confirmed the Joint Compromise Memo and also filed supporting affidavit.

10.During the adolescent age, boys and girls get involved in a relationship, such relationship would be the result of mutual innocence and biological attraction, which cannot be construed as an unnatural one or alien to relationship between opposite sexes.

11.This Court as well as the Hon'ble Apex Court had held that at the adolescent age due to psychological and harmonious factor, the adolescents get into the relationship and behaved differently. Later, they reconciled to reality and the issues between them get resolved.

12.In this case, admittedly, the petitioner not touched the 2nd respondent except pulling her by Duppata for the reason that his proposal has been rejected by her. No doubt, the petitioner barged into the house of 2nd respondent, abused her and caused simple injuries. Thus, the continuation of the above case would only cause harassment and



CrI.O.P.No.29374 of 2022

WEB COPY

disturbing the matrimonial life of both the petitioner as well as the 2nd respondent.

13.In view of the above and guidelines issued by the Hon'ble Apex Court to consider sympathetically for the events taken place in adolescent age and the further developments, this Court finds that real justice could be done both to the petitioner as well as to the 2nd respondent if the case in Special S.C.No.27 of 2022 is quashed.

14.In the result, the proceedings in Special S.C.No.27 of 2022, on the file of the Mahila Court, Perambalur, is hereby Quashed. Accordingly, this Criminal Original Petition is allowed.

21.06.2023

Index: Yes/No
Internet: Yes/No

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To

1.The Mahila Court,
Perambalur.



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CrI.O.P.No.29374 of 2022

M.NIRMAL KUMAR, J.

vv2

2.The Inspector of Police,
Kaikalathur Police Station,
Perambalur District.

3.The Public Prosecutor,
High Court, Madras.

CrI.O.P.No.29374 of 2022

21.06.2023