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Crl.O.P.No.24749 of 2023

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 24.11.2023

CORAM

THE HONOURABLE DR.JUSTICE G.JAYACHANDRAN

Crl.O.P.No.24749 of 2023

and

Crl.M.P.Nos.17225 & 17227 of 2023

- 1.Ayyanar
2. Azhagappan
3. Namasivayam
4. Govindhammal

... Petitioners

Vs.

1. State Rep. By,
Inspector of Police,
All Women Police Station,
Ulundurpet Taluk,
Villupuram District.
Crime No.20 of 2014

2. Srimathi

...Respondents

Prayer: Criminal Original Petition is filed under Section 482 of Criminal Procedure Code, pleaded to call for the records in connection with entire proceedings pending in Spl.S.C.No.30 of 2020 and quash the same.

For Petitioner : Mr.S.Saravana Kumar

For R1 : Mr.Leonard Arul Joseph Selvam
Government Advocate (Crl. Side)



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ORDER

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The petitioners herein, who are the accused in Spl.S.C.No.30 of 2020 on the file of the POCSO Court, Villupuram seeks quashment of the criminal prosecution on the ground that, as on the date of the alleged occurrence, the girl was about 17 year old and even after registration of the complaint, the first accused and the girl continued to live as husband and wife and recently, the girl has given birth to the second child. It is also contended that there was no element of criminality in their affairs and the provisions under the POCSO offences are not attracted.

2. The learned Government Advocate (Crl. Side) submitted that, on 07.10.2014, a complaint was received by the respondent police. Based on the information given by the minor girl alleging sexual assault by the accused ie., on 23.03.2014, when she was alone in her house, accused promised her to marry her and frequently had sexual intercourse. As a consequence, she was conceived. The accused tried to abort the foetus but the Doctors refused to terminate the pregnancy, since by that time, foetus was five months old. When the elders of the family asked the 1st accused to



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marry the victim girl, his parents and relatives who are the other accused abused and threatened her with dire consequences. Hence, a case was registered under Sections 448, 506(i) of IPC read with Section 4 of Protection of Children from sexual offences Act, 2012 as against the 1st accused and for the offences under Sections 294(b), 354, 506(ii) of IPC as against 2nd & 4th accused and for the offences under sections 294(b), 506(ii) of IPC as against 3rd accused.

3. As per the prosecution, the victim girl was born on 21.04.1997. The victim girl was in love with the petitioner and though she was minor in age, had consented for the intercourse and became pregnant. Only, when she was attempted to abort the foetus, the matter has come to light. The complaint given almost five years after the occurrence. Though the complaint was registered nearly after a month of lodging the complaint, it appears that, victim girl and 1st accused is living together and the girl has given birth to a child on 13.01.2015. Thereafter, marriage been solemnised between them and the second child was born on 22.10.2023. As a result, now Joint Compromise Memo been filed before this Court along with a petition to



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quash the criminal case. Stating the fact that, being an affair between the minor girl and the adult boy, though under law, the consent given by the victim girl is not valid, on fact, it was consensual sex and after attaining majority, they solemnised marriage and they living as a married couple. On the basis of the Adhar Card, the age of the girl was determined as 21.04.1997. On the date of complaint ie, on 07.10.2014, she was about 16 ½ years old. Now, by the efflux of time, she has reached adulthood and she is capable of taking her own decision. That apart, she has filed joint compromise memo to quash the entire proceedings initiated on her complaint.

4. Taking into consideration the nature of events leading to registration of case, this Court is inclined to quash the criminal case pending against the petitioners.

5. Accordingly, this Criminal Original petition is allowed. The



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proceedings in Spl.S.C.No.30 of 2020 on the file of the learned Sessions Judge, Special Court for Exclusive Trial of Cases under POCSO Act, Villupuram as against the petitioners is hereby quashed. Consequently, connected miscellaneous petitions are closed.

24.11.2023

Index : Yes/No
Neutral Citation : Yes/No
Sma

To

1. Inspector of Police,
All Women Police Station,
Ulundurpet Taluk,
Villupuram District.
2. The Session Judge,
Special Court for Exclusive Trial of cases under POCSO Act,
Villupuram.
3. The Public Prosecutor,
Madras High Court.

Dr.G.JAYACHANDRAN,J.



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