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CrI.O.P.No.30152 of 2022

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 26.06.2023

CORAM

THE HONOURABLE MR.JUSTICE M.NIRMAL KUMAR

CrI.O.P.No.30152 of 2022

Vasanth

... Petitioner

Vs.

1.State Rep By its,
Inspector of Police,
Thiruchengodu Town Police Station,
Namakkal District.

2.Priyadharshini

... Respondents

PRAYER: Criminal Original Petition is filed under Section 482 of the Code of Criminal Procedure, to call for the records in Spl.C.C.No.89 of 2022 on the file of the Learned Sessions Judge-Fast Track Mahila Court, Namakkal and quash the same as against.

For Petitioner	:	Mr.T.Dhasarathan
For R1	:	Mr.A.Gokulakrishnan, Additional Public Prosecutor
For R2	:	Mr.C.Vidhusan

ORDER

The petitioner, who is facing trial in Special C.C.No.89 of 2022, for offence under Sections 5(I), 5(j)(ii) and 6 of Protection of Children from Sexual Offence Act, 2012 and Section 449 of IPC, has filed this



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Criminal Original Petition.

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2. Gist of the case is that prior to six months of the occurrence, the 2nd respondent/victim girl was studying B.A in Ramalinga College, Namakkal in staying in her Aunt house at Thiruchengode due to shortage of bus facility in her native Ramapuram. For the past two years, the petitioner and victim girl are friends. During the year 2020, on the next day of Christmas, victim girl's Uncle and Aunt went to Ramapuram. Taking advantage of the loneliness of victim girl, petitioner entered into the house, proposed his love and had physical relationship for two times on the promise that he would marry her soon. Again, on 08.04.2021, his Uncle went to mason work, his Aunt had gone to Thiruchengode to meet relatives. At about 02.00 p.m., petitioner went to her home and asked her to be like husband and wife. Despite refusal of victim girl, petitioner had physical relationship with her. After that, on 05.05.2021, victim girl suffered stomach pain and informed the same to petitioner. Both of them went to Government Headquarters Hospital, Namakkal at about 12.30 p.m. The Doctor examined the victim girl and confirmed that victim girl was pregnant and operation should be performed immediately. On



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hearing the same, petitioner left victim girl alone in hospital and thereafter, she called her mother and informed happenings. On the same day evening, operation was performed and on 10.05.2023, 1st respondent Police received complaint from victim girl in hospital and registered FIR in Crime No.394 of 2021, for offence under Sections 5(I), 5(j)(ii) and 6 of Protection of Children from Sexual Offence Act, 2012 and Section 449 of IPC. On completion of investigation by collecting evidence and materials, charge sheet filed before the learned Sessions Judge, Fast Track Mahila Court, Namakkal listing 15 witnesses (LW1 to LW15).

3.At this stage, this Quash Petition filed on the ground that now, the dispute between the petitioner and the victim girl resolved and they got married in Pillaiyar Temple, Velagoundampatti village, Tiruchengode taluk, Namakkal district and living as husband and wife.

4.Learned counsel for the petitioner submitted that petitioner and victim girl were in love with each other and they got married in Pillaiyar Temple, Velagoundampatti village, Tiruchengode taluk, Namakkal district. The victim girl in the statement under Section 164 Cr.P.C.,



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stated that she does not want to file any case against petitioner and she had love affair with him for two years and their parents decided for their marriage after completion of studies. She further stated that she did not make any complaint against the petitioner and the Police obtained signature from her when she was in hospital and thereafter, registered case against petitioner. He further submitted that now, victim girl and petitioner got married and they are leading their matrimonial life happily. In proof of same, victim girl filed consent affidavit before this Court. Hence, he sought for quashing of the proceedings.

5.Learned Additional Public Prosecutor appearing for the 1st respondent Police submitted that on the complaint of victim girl, a case in Crime No.11 of 2019 was registered and thereafter, investigation taken up. During investigation, father/LW2 and mother/LW3 of victim girl examined and they corroborated the statement of victim girl/LW1. LW4 and LW5 are witnesses to Observation Mahazar. LW6 and LW7 are witnesses to confession statement of petitioner. LW8 is the Doctor, who examined victim girl medically. LW9 is the another Doctor who examined petitioner and issued potency certificate. LW15 is the



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Investigating Officer. With their statements and materials collected, charge sheet filed before trial Court.

6.Learned Additional Public Prosecutor fairly submitted that the victim girl appeared before the 1st respondent Police along with the petitioner and his mother and stated that she and the petitioner got married in Pillaiyar Temple, Velagoundampatti village, Tiruchengode taluk, Namakkal district and leading a happy matrimonial life. In the statement under Section 164 Cr.P.C., victim girl stated that after two years, they would get married.

7.Today, petitioner, victim girl and petitioner's mother are present and they are identified by Mr.T.K.Subramani, Special Sub Inspector of Police attached to the 1st respondent Police Station. The victim girl appeared before this Court and submitted that she intends not to proceed with the case and sought for withdrawal of the case. She confirmed that she and the petitioner got married in Pillaiyar Temple, Velagoundampatti village, Tiruchengode taluk, Namakkal district and she is living with petitioner. When she was in hospital, Police got signature from her and



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registered FIR against petitioner. Now, she is not interested to pursue case and confirmed consent affidavit filed by her. Added to it, petitioner filed affidavit that he married victim girl and they are living happily.

8.Considering submissions and on perusal of the materials, it is seen that now petitioner and victim girl are living happily together as husband and wife. In order to confirm compromise, victim girl and petitioner filed affidavits before this Court.

9.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 issue herein is on the same footing, after registration of the case and filing of charge sheet now, they get married and living as husband and wife. In view of the subsequent development and issues getting resolved, this Court is not inclined to disturb the happy family life of



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petitioner and his wife/victim girl. Real justice could be done if the case is quashed.

10.In the light of the above decision and considering the fact that the petitioner is properly taking care of his wife/victim girl, this Court quashes the proceedings in Special C.C.No.89 of 2022, on the file of the Sessions Judge-Fast Track Mahila Court, Namakkal. Hence, this Criminal Original Petition is allowed.

26.06.2023

Index: Yes/No
Internet: Yes/No
vv2

M.NIRMAL KUMAR, J.
vv2

To

- 1.The Sessions Judge, Fast Track Mahila Court,
Namakkal.
- 2.The Inspector of Police,
Thiruchengodu Town Police Station,
Namakkal District.



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3.The Public Prosecutor,
High Court, Madras.

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