



Crl.O.P.(MD)No.16295 of 2022

BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

DATED: 13.02.2023

CORAM

THE HON'BLE MR.JUSTICE K.MURALI SHANKAR

Crl.O.P.(MD)No.16295 of 2022

and

CrI.M.P.(MD)No.10812 of 2022

Rajapandi

... Petitioner/Sole
Accused

Vs.

1.State represented by
The Inspector of Police,
AWPS - Sankarankovil,
Tenkasi District.
(Crime No.6 of 2020)

... 1st Respondent/
Complainant

2.XXXX

... 2nd Respondent/
Defacto
Complainant

PRAYER : Criminal Original Petition filed under Section 482 of Criminal Procedure Code, to call for the records in Special C.C.No.51 of 2020 on the file of Special Court for the exclusive trial of POCSO Act Cases, Tirunelveli and quash the same.



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For Petitioner : Mr.R.J.Karthick
For R1 : Mr.M.Muthumanikkam
Government Advocate (Crl. Side)
For R2 : Mr.S.Suresh Manickam

ORDER

This Criminal Original Petition has been filed, invoking Section 482 Cr.P.C., seeking orders to call for the records pertaining to the charge sheet in Special C.C.No.51 of 2020 on the file of the Special Court for the exclusive trial of POCSO Act Cases, Tirunelveli and quash the same.

2. The case of the prosecution is that the victim girl fell in love with the petitioner/accused, that on 12.05.2020, the petitioner, by giving false promise to marry her, had taken the victim girl, who is a minor, to the house of one Chitra, who is the relative of the petitioner and the petitioner had hugged and kissed the victim girl and at that time, the said Chitra and her husband entered into the house and had scolded them and that thereafter, the victim girl was accompanied and assisted by them to return to her house.



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3. The learned counsel appearing for the petitioner would submit that the second respondent/defacto complainant has lodged a complaint before the first respondent and on that basis, FIR came to be registered in Crime No.6 of 2020 against the petitioner and after investigation and filing of the final report, the case was committed to the Sessions Court in Spl.C.C.No.51 of 2020 on the file of the Special Court for the exclusive trial of POCSO Act Cases, Tirunelveli for the offences under Sections 7 and 8 of Protection of Child from Sexual Offences Act, 2012. He would further submit that the marriage between the petitioner and the victim girl was solemnized on 22.08.2022 and their marriage was registered on 12.09.2022.

4. The learned Government Advocate (Criminal Side) appearing for the first respondent would submit that the victim girl was aged more than 17 years at the time of the alleged occurrence.

5. The case is under trial. Since the petitioner has married the victim girl, they have decided to bury their hatchet and compromise the dispute amicably among themselves.



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6. A Joint Memo of Compromise has been filed before this Court which have been signed by the petitioner and the second respondent and also by their respective counsels. Further, the father of the victim girl Kalimuthu has also filed an affidavit before this Court. The petitioner, the second respondent and the father of the second respondent are present before this Court and they were identified by M/s.R.Uma Maheswari, Special Sub Inspector 605, All Women Police Station, Sankarankovil, Tenkasi District as well as by the learned counsels appearing for the parties. This Court also enquired both the parties and was satisfied that the parties have come to an amicable settlement between themselves.

7. No doubt, the petitioner is facing a trial for the offences under Sections 7 and 8 of Protection of Child from Sexual Offences Act, 2012.

8. At this juncture, it is necessary to refer the decision of this Court in *Vijayalakshmi and others Vs. State and others* reported in *(2021) 2 CTC 191* and the relevant passages are extracted hereunder:-

“19. The main issue that requires the consideration of this Court is as to whether this Court can quash the



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criminal proceedings involving non-compoundable offences pending against the second respondent. The Hon'ble Supreme Court in the case of Parbathbhai Aahir @ Parbathbhai Vs. State of Gujrath, reported in 2017 9 SCC 641 and in case of The State of Madhya Pradesh Vs. Dhruv Gurjar and Another reported in (2019) 2 MLJ CrI 10, has given sufficient guidelines that must be taken into consideration by this Court while exercising its jurisdiction under Section 482 of Cr.P.C, to quash non-compoundable offences. One very important test that has been laid down is that the Court must necessarily examine if the crime in question is purely individual in nature or a crime against the society with overriding public interest. The Hon'ble Supreme Court has held that offences against the society with overriding public interest even if it gets settled between the parties, cannot be quashed by this Court.

20. In the present case, the offences in question are purely individual/personal in nature. It involves the 2nd Petitioner and the 2nd Respondent and their respective families only. It involves the future of two young persons who are still in their early twenties. The second respondent is working as an Auto driver to eke his livelihood. Quashing the proceedings, will not affect any overriding public interest in this case and it will in fact pave way for the 2nd Petitioner and the 2nd Respondent to settle down



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in their life and look for better future prospects. No useful purpose will be served in continuing with the criminal proceedings and keeping these proceedings pending will only swell the mental agony of the victim girl and her mother and not to forget the 2nd Respondent as well.

21. In view of the above, this Court is inclined to quash the criminal proceedings in Special S.C.No.24 of 2018 on the file of the learned Sessions Judge, Mahila Court (Fast Track Mahila Court) Erode in exercise of its jurisdiction under Section 482 of the Criminal Procedure Code, 1973. Accordingly, the same is quashed and this Criminal Original Petition is allowed. Consequently, connected miscellaneous petition is also closed.”

9. The above decision is squarely applicable to the case on hand.

Moreover, it seems now that the petitioner and the second respondent have amicably settled their dispute between themselves. The petitioner and the second respondent got married. Since the parties have entered into a compromise, the possibility of conviction will be remote and bleak. In the above circumstances, continuity of the criminal proceedings would only cause oppression and prejudice to the parties, hence, in order to secure the ends of justice, this Court is inclined to quash the criminal proceedings.



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10. Accordingly, this Criminal Original Petition is allowed and the proceedings in Spl.C.C.No.51 of 2020, on the file of the Special Court for the exclusive trial of POCSO Act Cases, Tirunelveli, is quashed and the joint compromise memo shall form part and parcel of this order. Consequently, connected Miscellaneous Petition is closed.

13.02.2023

NCC : Yes / No
Index : Yes / No
Internet : Yes / No
csm

To

- 1.The Special Court for the exclusive trial of POCSO Act Cases,
Tirunelveli.
- 2.The Inspector of Police,
AWPS - Sankarankovil,
Tenkasi District.
- 3.The Additional Public Prosecutor,
Madurai Bench of Madras High Court,
Madurai.



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K.MURALI SHANKAR,J.

csn

Order made in
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and
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Dated: 13.02.2023