



*Crl.O.P.(MD)No.22250 of 2022*

BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

DATED: **05.01.2023**

CORAM

**THE HON'BLE MR.JUSTICE K.MURALI SHANKAR**

**Crl.O.P.(MD)No.22250 of 2022**

1.Vijun

2.Vimala

3.Jarilla

... Petitioners

Vs.

1.The State of Tamil Nadu, represented by  
The Inspector of Police,  
All Women Police Station,  
Colachel,  
Kanyakumari District.  
(Crime No.38 of 2019)

2.Easwari

3.Abira

... Respondents

**PRAYER :** Criminal Original Petition filed under Section 482 of Criminal Procedure Code, to call for the records and quash the charge sheet filed in Spl.S.C.No.20 of 2020 on the file of the Mahila Court, Nagercoil.



*Crl.O.P.(MD)No.22250 of 2022*

For Petitioners : Mr.C.R.Nimal  
For R1 : Mr.M.Muthumanikkam  
Government Advocate (Crl. Side)  
For R2 & R3 : Mr.R.Mohana Sundaram

### **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 Spl.S.C.No.20 of 2020 on the file of the Mahila Court, Nagercoil and quash the same.

2. The case of the prosecution is that the victim girl was studying B.Com at Scott Christian College and she fall in love with the first accused, that on 30.08.2019, when the victim girl was proceeding to her college by bus, she was compelled to get down and was taken to the house of the second accused and that the first accused has sexually assaulted the victim girl and thereafter, the victim girl was accompanied and assistant by the accused 2 and 3 to return to her house by bus.



*Crl.O.P.(MD)No.22250 of 2022*

3. The learned counsel appearing for the petitioners would submit that the second respondent/defacto complainant, who is the mother of the third respondent/victim girl, has lodged a complaint before the first respondent and on that basis, FIR came to be registered in Crime No.38 of 2019 against the first petitioner for the offence under Section 366 IPC and after investigation and filing of the final report, the case was committed to the Sessions Court in Spl.S.C.No.20 of 2020 on the file of the Mahila Court, Nagercoil.

4. The third respondent/victim girl was born on 15.01.2002 and she has already completed B.Com course and is working in abroad. Moreover, the third respondent/victim girl was aged more than 17 years at the time of the alleged occurrence.

5. The case is under trial. Since the parents of the third respondent/victim girl have arranged marriage for her, they have decided to bury their hatchet and compromise the dispute amicably among themselves.



*Crl.O.P.(MD)No.22250 of 2022*

6. A Joint Memo of Compromise has been filed before this Court which have been signed by the petitioners and the respondents 2 and 3 and also by their respective counsels. The petitioners and the respondents 2 and 3 are present before this Court and they were identified by M/s.M.Albin Juliet Mary, Women Head Constable 1185, All Women Police Station, Colachel 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 petitioners are facing a trial for the offences under Section 366(A) IPC and Sections 17, 5(l) and 6 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 criminal proceedings involving non- compoundable offences pending against the second respondent. The*



**Crl.O.P.(MD)No.22250 of 2022**

*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 Crl 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 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, 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.

10. Accordingly, this Criminal Original Petition is allowed and the proceedings in Spl.S.C.No.20 of 2020, on the file of the Mahila



*Crl.O.P.(MD)No.22250 of 2022*

Court, Nagercoil, is quashed and the joint compromise memo shall form part and parcel of this order.

**05.01.2023**

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

To

- 1.The Mahila Court,  
Nagercoil.
2. The Inspector of Police,  
All Women Police Station,  
Colachel,  
Kanyakumari District.
- 3.The Additional Public Prosecutor,  
Madurai Bench of Madras High Court,  
Madurai.



WEB COPY



*Crl.O.P.(MD)No.22250 of 2022*

**K.MURALI SHANKAR,J.**

csn

Order made in  
**Crl.O.P.(MD)No.22250 of 2022**

Dated: 05.01.2023