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Crl.OP.No.15407of 2024

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 01.07.2024

CORAM

THE HONOURABLE DR.JUSTICE G.JAYACHANDRAN

Crl.OP.No.15407 of 2024

and

Crl.MP.Nos.9409 and 9411 of 2024

M.Rajkumar

... Petitioner

Vs.

1. The State of Tamilnadu
Rep by Inspector of Police,
All Women Police Station,
Namakkal District.

2. Kamalam,
The Social Village Welfare Officer,
Rasipuram (TK),
Namakkal District.

... Respondents

Prayer: Criminal Original Petition is filed under Section 482 of Criminal Procedure Code, to call for the records and quash the Special C.C.No.105 of 2022 before the learned Mahila Court, Namakkal.

For Petitioner : Mr.U.Gowri Shankar

For Respondents : Mr.K.M.D.Muhilan
Government Advocate (Crl.Side)
for R1



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ORDER

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X standard girl student (11.02.2006-date of birth of the student) had developed physical intimacy with the petitioner herein and married the petitioner against the wish of her parents. When she was four months pregnant, marriage was solemnized in a temple at Kuchikkadu on 21.10.2020.

2. On receiving information about the the child marriage been performed, the respondent police has registered an FIR in Cr.No.9 of 2022 under Section 9 of Child Marriage Act r/w 5(1), 5(j)(ii) and 6 of POCSO Act. In the course of investigation, statement of the victim girl was recorded by the learned Magistrate under Section 164 of Cr.P.C.

3. Though the victim girl has stated that she was in love with the petitioner herein married him on her own wish and living as husband and wife, taking note of the fact that the victim was below 18 years old and she had been impregnated by the petitioner. The respondent police has proceeded with filing final report.



4. The Special Court which has taken cognizance of the offence and started the examination of witnesses. The victim girl who was examined as P.W.1 has reiterated her stand particularly, stating that she fell in love with the petitioner herein and he was supporting the family financially and therefore, she compelled him to marry her. Accordingly, they got married and living as husband and wife.

5. When she went to the hospital for medical check up for pregnancy, the Doctors in the said hospital had informed the respondent police and the Child Welfare Officer after ascertaining her age was less than 18 years based on the Aadhar Card. He has further deposed that on 25.07.2022, she has delivered a male baby and peacefully living with the petitioner. In the cross examination, she has revealed certain details regarding the reason why she compelled the petitioner herein to marry her and her attempt to commit suicide when the petitioner refused to marry her.

6. The learned counsel for the petitioner submits that if the petitioner is subjected to trial any further despite the testimony of the victim girl is totally exonerates the petitioner herein from all the charges. It will lead to miscarriage of justice.



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7. The learned Government Advocate (Crl.Side) submits that the petitioner was granted bail after incarceration is at initial stage, he was granted bail after examining P.W.1 and he is living with the victim girl.

8. This Court is satisfied that the victim girl and the petitioner having married and living together peacefully. Though marriage was solemnized when the girl was child, now she has crossed the age of minority and she is not inclined to prosecute the petitioner herein and she has explicitly deposed before the learned Magistrate that the prosecution of the petitioner herein will cause hardship to her and the child.

9. In view of the said fact, the Court exercising the power under Section 482 of Cr.P.C to quash the case in Spl.CC.No.105 of 2022 on the file of the Mahila Court, Namakkal, this Criminal Original Petition is allowed. Consequently, the connected miscellaneous petitions are closed.

01.07.2024

Vv

To



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1. The Mahila Court, Namakkal
2. The Inspector of Police,
All Women Police Station,
Namakkal District.
3. The Public Prosecutor,
High Court of Madras, Chennai.

Dr.G.JAYACHANDRAN,J.



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Vv

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Crl.MP.No.9409 and 9411 of 2024**

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