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Crl.O.P.No.20436 of 2024

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 25.09.2024

CORAM

THE HONOURABLE DR.JUSTICE **G.JAYACHANDRAN**

Crl.O.P.No.20436 of 2024

and

Crl.M.P.No.11793 of 2024

R.Nanjan

... Petitioner

Vs.

1.The State Represented by
The Inspector of Police,
Karamadai Police Station,
Coimbatore District.

2.Dhanabakkiyam

... Respondents

Prayer: Criminal Original Petition is filed under Section 482 of the Code of Criminal Procedure, praying to call for the records culminating Spl.S.C.No.135 of 2023, pending on the file of the learned Special Court for the Exclusive Trial of Cases under Pocso Act, Coimbatore, quash the same.

For Petitioner : Mr.B.Mohan

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



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ORDER

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The minor girl aged around 16 years had affair with the accused and eloped with him, got married on 03.12.2021. She got conceived and went to the hospital for check-up. At that time, the child line volunteer found that she was minor, therefore set law in motion for offence under the POCSO Act as against the accused.

2. When the victim girl was taken to the Judicial Magistrate for recording her statement under Section 164 Cr.P.C., she has clearly stated that, she eloped with the accused voluntarily, since she was in love with him and she was living with him as his wife after solemnization of marriage in the local temple and she is not interested in prosecuting her husband and she depends on her husband.

3. However, as the law mandates that prosecution must be instituted, the accused is facing trial for offence under Sections 366, 344, 376(3) IPC along with Sections 9, 5(1), 6, 5(j)(ii) of POCSO Act. Realising the consequence, the petitioner is before this Court to quash the complaint stating that the affair with the minor girl was opposed by the family members of the minor girl and therefore they both eloped got



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married and living happily as husband and wife. But while her visit to the local hospital for check-up, got under the scanner of child line volunteer and the matter had been brought to light and led to prosecution. Now the girl has attained majority and the child is about 2 years old. The prosecution will be detrimental to the interest of the minor girl and the child, since he is the sole bread winner of the family.

4. The learned counsel appearing for the petitioner submits that crime alleged to have been committed by the petitioner is unintentional and after the girl attained majority and continued to live with the petitioner we fortify that there was no *mens rea* on the part of the petitioner to commit any offence as alleged in the final report. But for the statutory age bar for the marriage, the learned Government Advocate was asked to verify about the fact whether the petitioner and the victim have married and living together with the child born to them. The Government advocate has reported positively about the said fact.

5. Today when the matter is called, the girl with the child along with the accused are present and submitted that they are living happily as



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husband and wife with the child and the continuation of the prosecution will shatter their peaceful life.

6. Considering the above facts, this Court is of the view that the power under Section 528 of BNSS Act is to be exercised to meet the ends of Justice. In the case on hand, the prosecution and conviction of the accused will not render justice to the victim girl but contrarily quashing of the complaint alone will help the victim girl to continue her married life peacefully.

7. Hence, this Criminal Original Petition is allowed and the Spl.S.C.No.135 of 2023 pending on the file of the learned Special Court for the Exclusive Trial of Cases under Pocso Act, Coimbatore stands quashed. Consequently, the connected miscellaneous petition is closed.

25.09.2024

Index : Yes/No

Neutral Citation : Yes/No

dsa

To

1.The Special Court for the Exclusive Trial
of Cases under Pocso Act,



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Coimbatore.

2.The Inspector of Police,
Karamadai Police Station,
Coimbatore District.

3.The Public Prosecutor,
High Court of Madras,
Chennai.



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Dr.G.JAYACHANDRAN,J.

dsa

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