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Crl.O.P.No.31546 of 2024

IN THE HIGH COURT OF JUDICATURE AT MADRAS

Dated: 17.12.2024

Coram:

THE HONOURABLE MR.JUSTICE P.VELMURUGAN

Crl.O.P.No.31546 of 2024

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Ranjith Kumar

.. Petitioner

Vs.

1. State, rep. by Inspector of Police,
W.12 All Women Police Station,
Harbour Range,
Chennai-600 001
(Crime No.5 of 2021)

2. Chithra

.. Respondents

Criminal Original Petition filed under Section 528 of the BNSS, 2023, to quash the proceedings in Final Report/Charge-sheet, dated 29.10.2021 in Spl.S.C.No.61 of 2022, pending before the Sessions Judge, Mahila Court, Allikulam, Chennai for the offence under Sections 366 and 343 of the Indian Penal Code and under Section 6 read with Section 5(j)(ii) of the POCSO Act, 2012.

For petitioner : Mr.Venkataswamy Babu

For respondents: Mr.S.Sugendran, Addl.P.P. for R-1



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ORDER

The present petition has been filed praying to quash the proceedings in Final Report/Charge-sheet, dated 29.10.2021 in Spl.S.C.No.61 of 2022, pending before the Sessions Judge, Mahila Court, Allikulam, Chennai for the offence under Sections 366 and 343 of the Indian Penal Code and under Section 6 read with Section 5(j)(ii) of the POCSO Act, 2012.

2. The case of the prosecution is that, during July 2021, the petitioner had abducted the de-facto complainant's minor daughter Miss.Udhaya, aged about 17 years and penetrated her sexually, due to which she became pregnant, regarding that, the de-facto complainant had lodged the report before the first respondent-Police Station and the case was registered against the petitioner by the first respondent in Crime No.5 of 2021 under Sections 366 and 343 of IPC and Section 6 read with Section 5(j)(ii) of the POCSO Act, and after investigation, the first respondent-Police also laid charge-sheet for the alleged offences under Sections 366 and 343 IPC and under Section 6 read with Section 5(j)(ii) of the POCSO Act and the same is pending in Spl.S.C.No.61 of 2022 before the Sessions Judge, Mahila Court, Allikulam, Chennai.

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3. The first respondent-Police had exaggerated and incorporated several unwanted contents in the complaint and registered the case with false averments, which is absolutely bereft of true facts. The first respondent-Police had not even conducted a preliminary enquiry with regard to the allegation contained in the complaint and registered a false case against the petitioner/accused.

4. On 27.07.2021, the second respondent/de-facto complainant had taken her daughter Udhaya (victim girl) for medical check-up and found that she was pregnant and regarding that, the de-facto complainant had verified with her daughter and came to know that the petitioner is the reason for the pregnancy, and so, the de-facto complainant had lodged a complaint on 31.07.2021 alleging that as if the petitioner/accused had abducted the victim girl and sexually seduced her. Later, the parents of the victim girl Udhaya had come to understand that there was no abduction or sexual harassment on the side of the petitioner/accused and so, the de-facto complainant had, considering their future, settled the issues amicably between themselves and they had decided to solemnize the marriage after the victim girl Udhaya attaining majority and thereby, on 07.10.2024, the marriage had been solemnized between the petitioner and victim girl Udhaya at Periyar Self Respect Marriage Bureau, Periyar Thidal, EVK Sampath Salai, Veppery, Chennai-600 007 and now they are living



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happily.

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5. The de-facto complainant also agreed to withdraw the complaint and does not want to proceed further in the case, which had been pending before the Sessions Court, Mahila Court, Allikulam, Chennai in Spl.S.C.No.61 of 2022 for the offences under Sections 366 and 343 of IPC and under Section 6 read with Section 5(j)(ii) of the POCSO Act against the petitioner may be quashed.

6. According to the petitioner, the entire allegations in the final report, are false, frivolous and motivated and further, it has been filed with ulterior motive to settle the civil dispute in the criminal forum. Hence, the petitioner is challenging the charge-sheet taken on file in Spl.S.C.No.61 of 2022 on the file of Sessions Court, Mahila Court, Allikulam, Chennai.

7. It is seen from the records that, at the time of commission of the offences, the victim girl was a child below 18 years. In this context, the Supreme Court, in the case of 2024 (4) MLJ (Crl) 461 (SC) (Ramji Lal Bairwa Vs. State of Rajasthan), held as follows:

"20. The view expressed in paragraph 31 was virtually the view expressed by this Court in *Arunachalm Vs. P.S.R.Sadhanantham* (1979) 1 MLJ (Crl) 527 : LNIND 1979 SC 180 : (1979) 2 SCC 297 : AIR 1979 SC 1284, as held in *Ramakant Rai Vs. Madan Rai and others* (supra) (LNIND 2003 SC 837) case itself. In *Arunachalam Vs. P.S.R.Sadhanantham* (supra), the acquittal of



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P.S.R.Sadhanantham and four others by the High Court upon reversing the judgment of their conviction was challenged by the brother of the deceased viz., Arunachalam by filing a Special Leave Petition. Virtually, leave was granted only against the first accused P.S.R.Sadhanantham. Though the *locus standi* of the private party in the sense, one who was not a party to the original criminal proceedings to maintain a Special Leave Petition under Article 136 was raised, this Court, relying on the decision in *Mohan Lal Vs. Ajit Singh*, *LNIND 1978 SC 144 : (1978) 3 SCC 279 : AIR 1978 SC 1183*, held that this Court could entertain appeal against a judgment of acquittal at the instance of private parties also. Furthermore, it was held that Article 136 of the Constitution of India neither confers on anyone the right to invoke the jurisdiction of the Supreme Court nor inhibits anyone from invoking the Court's jurisdiction and where a judgment of acquittal by the High Court led to a miscarriage of justice, the Supreme Court would not refrain from doing its duty and abstain from interfering on the ground that a private party and not the State has invoked the Court's jurisdiction. We may hasten to add here that the said decisions were rendered prior to the amendment brought to Section 372, Cr.P.C., conferring the victim a right to prefer an appeal against an order passed by a Court acquitting the accused and expanding the scope of the expression "victim" under Section 2(wa), Cr.P.C., by



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including his or her guardian or legal heir, *vide* Act No.5 of 2009 with effect from 31.12.2009 to prefer an appeal against acquittal in the Cr.P.C. That apart, this Court in those decisions specifically held that a private party could prefer an appeal against acquittal invoking the jurisdiction of this Court under Article 136 of the Constitution if the judgment of acquittal led to serious miscarriage of justice. According to us, such right to a third party to prefer a petition under Article 136 of the Constitution is certainly to be recognised and respected in a case where seemingly miscarriage of justice had occurred and still, neither State nor the victim or any relative falling under the term "victim" approached this Court."

"32. In the decision relied on by the High Court to quash the proceedings *viz., Gian Singh Vs. State of Punjab (supra) (2011 (2) MLJ (CrI) 201)* and the decision in *State of M.P. Vs. Laxmi Narayan (supra) (LNIND 2019 SC 215)* in unambiguous terms this Court held that the power under Section 482, Cr.P.C. could not be used to quash proceedings based on compromise if it is in respect of heinous offence which are not private in nature and have a serious impact on the society. When an incident of the aforesaid nature and gravity allegedly occurred in a higher secondary school, that too from a teacher, it cannot be simply described as an offence which is purely private in nature and have no serious impact on the society."



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8. Since this case is against not only the State, but also against the Society, the case of this nature as per the directions of the Supreme Court in the above judgment, shall not be quashed. Accordingly, the proceedings in Final Report/charge-sheet dated 29.10.2021 in Spl.S.C.No.61 of 2022, pending on the file of the Sessions Court, Mahila Court, Allikulam, Chennai, for the offences under Sections 366 and 343 of the Indian Penal Code and also under Section 5(j)(ii) of the POCSO Act, shall not be quashed. However, the petitioner is at liberty to take all defences before the trial Court.

9. With the above observations and direction, this petition is dismissed.

17.12.2024

CS

To

1. The Inspector of Police,
W.12 All Women Police Station,
Harbour Range,
Chennai-600 001
(Crime No.5 of 2021)

2. The Public Prosecutor, High Court, Madras.

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3. The Sessions Judge, Mahila Court, Allikulam, Egmore, Chennai.

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P.VELMURUGAN, J

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