



CRL OP(MD). No.681 of 2022

BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

WEB COPY

Date : 14.02.2024

CORAM

The Hon`ble Mr.Justice M. DHANDAPANI

CRL OP(MD) No.681 of 2022

Selvam

... Petitioner

Vs

1. State Rep. By its,
The Inspector of Police,
All Women Police Station,
Keeranur,
Pudukkottai District.
(Crime No.14/2021)

2. Saraswathi,
W/o. Balasubramani,
Keelakku theru,
Annasamuthiram,
Theravur Mettupatty,
Viralimalai Taluk,
Pudukkottai District.

... Respondents

PRAYER :- Criminal Original Petition filed under section 482 of Cr.P.C., to call for the records and quash the proceedings in Spl. S.C.No. 33 of 2021 pending on the file of the learned Sessions Judge, (Mahila Court), Pudukkottai.



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For Petitioner : M/s. B. Sekar

For Respondents : M/s.P. Kottaichamy for R1
Additional Public Prosecutor

M/s. J.S. Murali for R2

ORDER

This petition has been filed seeking to quash the charge sheet in Spl.S.C.No.33 of 2021 on the file of the Sessions Judge, (Mahila Court), Pudukottai.

2.The case of the prosecution is that a complaint came to be registered against the petitioner by one Mookkayee, who is the mother of the victim girl, stating that on the pretext of marrying, the petitioner had physical relationship with the victim girl, as such, the victim girl got pregnant and hence, a case in Crime No.14 of 2021 for the offences under Sections 5(1), 5(j)(ii) and 6(1) of Protection of Child from Sexual Offences Act, 2012 was registered. On completion of investigation, chargesheet came to be filed before the jurisdictional Court and the same was taken on file in Spl.S.C.No.33 of 2021. Challenging the same, the petitioner filed this petition.



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3.The learned counsel for the petitioner would submit that the petitioner and the victim girl are close relatives, ie., the de-facto complainant is the paternal aunt of the petitioner herein. He would submit that though the criminal case was registered against the petitioner as early as on 19.09.2021, subsequently, with the blessings of the elders of both the family, the marriage was performed between the petitioner and the victim girl, after the victim girl became major, on 12.02.2023 at Ennai Community Hall, Illapur Pudukottai District and the said marriage was registered on 12.04.2023. Subsequently, they were blessed with a girl baby. It is therefore, submitted that both the victim girl and A1 are leading their life happily.

4.The learned counsel appearing for the petitioner would further submit that the issue arises in the present quash petition is no longer *res-integra* in view of the decision rendered in Crl.OP.No.9691 of 2022 and also the decisions of the Apex Court in *Parbathbhai Aahir @ Parbathbhai Vs. State of Gujrath [2017 9 SCC 641]* and *The State of Madhya Pradesh Vs. Dhruv Gurjar and Another [2019 2 MLJ Crl. 10]*,



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5. The learned counsel appearing for the petitioner would further submit that a memo of compromise has also been filed by the petitioner and the 2nd respondent, ie., victim girl, on 9th January, 2022 and the same was duly signed by the parties and their respective counsels. Accordingly, he prays for allowing the petition.

6. The learned Government Advocate (Crl.Side) appearing for the State has not disputed the facts submitted by the learned counsel for the petitioner.

7. Heard the learned counsel on either side and perused the materials available on record.

8. Since when the very same issue came up for consideration before this Court, in **Crl.OP.No.9691 of 2022**, this Court, after following the decisions rendered by this Court in **Sabari Vs. Inspector of Police** reported in **2019 (3) MLJ Crl. 110**, in **Crl.OP.No.232 of 2021 (Vijayalakshmi and Another Vs.State represented by the Inspector of Police, All Women Police Station, Erode and Another)** dated



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27.01.2021, and the guidelines issued by the Apex Court in **Parbathbhai Aahir @ Parbathbhai Vs. State of Gujrath [2017 9 SCC 641]** and **The State of Madhya Pradesh Vs. Dhruv Gurjar and Another [2019 2 MLJ CrI. 10]**, quashed the criminal proceedings against the accused therein. Hence, following the said decision, the chargesheet filed against the petitioner is liable to be quashed.

9. It is also to be borne in mind that when the matter was taken up for hearing, the family members of the victim girl as well as the petitioner appeared before this Court and submitted that the marriage was performed between the petitioner and the victim girl after the victim girl attains majority and the victim girl has consented to quash the case against the petitioner.

10. Since the above decision rendered by this Court is squarely applicable to the present case on hand, the offences in question are purely individual and personal in nature and it involves between the respective families, continuation of proceedings in Spl.S.C.No.33 of 2021 pending on the file of the Sessions Judge, (Mahila Court), Pudukottai, against the



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petitioner, would be caused mental agony to the petitioner, the victim girl as well as their parents.

11. Considering the decision rendered by this Court and the joint compromise memo dated 07.01.2022, the Criminal Original Petition is allowed and the proceedings in Spl.S.C.No.5 of 2022 pending on the file of the Special Court for POCSO Act Cases, Kanyakumari District, is hereby quashed and the terms of joint compromise memo shall form part and parcel of this order.

14.02.2024

NCC : Yes/No
Index : Yes/No

RR

TO

1.The Sessions Judge, (Mahila Court),
Pudukottai.

2.The Inspector of Police,
All Women Police Station,
Keeranur, Pudukkottai District.



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M.DHANDAPANI. J

RR

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