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BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

DATED: 20.11.2024

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THE HON'BLE MR.JUSTICE M.NIRMAL KUMAR

Crl.O.P.(MD)No.2109 of 2024
and
Crl.M.P.(MD)No.1601 of 2024

Gowtham @ Kowtham ... Petitioner

Vs.

1.The Inspector of Police,
All Women Police Station,
Ottanchatram, Dindigul District,
(Crime No.18 of 2023)

2.Eswarya ... Respondents

PRAYER : Criminal Original Petition filed under Section 482 of the Criminal Procedure Code, to call for the records pertaining to PRC No.43 of 2023 on the file of the Judicial Magistrate Court, Ottanchatram and quash the same insofar as the petitioner is concerned.

For Petitioners : Mr.J.Vishnu
For R1 : Mr.K.Sanjai Gandhi
Government Advocate (Crl.Side)
For R2 : Mr.G.Velumani

ORDER

This Criminal Original Petition has been filed to call for the records in PRC No.43 of 2023, on the file of the learned Judicial

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Magistrate, Ottanchatram, and quash the same as illegal, improper and abuse of process of law.

2.The case of the prosecution is that the defacto complainant and the petitioner were in love with each other. The defacto complainant is a BBA graduate. The petitioner had good relationship during college time. Though it was agreed by the petitioner to marry the defacto complainant, later, the petitioner had change of mind and hence, the defacto complainant had lodged the complaint.

3. The learned counsel appearing for the petitioner would submit that since the petitioner has not acceded to the request of the second respondent to marry her, the second respondent foisted a false complaint before the first respondent and F.I.R. registered in Crime No.18 of 2023, after investigation, final report filed, the same taken cognizance in P.R.C.No.43 of 2023, on the file of the learned Judicial Magistrate, Ottanchatram, Dindigul District, for the offences under Sections 376 and 417 I.P.C., against the petitioner. He further submitted that the doctor had opined that the injury was simple in nature.

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4. The case is under trial. By passage of time, the parties have decided to bury their hatchet and compromise the dispute amicably among themselves. The petitioner and the defacto complainant are present before this Court. They are major. Now, both realized their mistakes, reconciled and second respondent agreeing to withdraw the complaint, not willing to pursue the case.

5. This Court had interacted with the victim girl in person. She submitted that the defacto complainant/victim had married another man and she is living in her new life peacefully. She does not want to precipitate the issue further. She further submits that she used to cycling to the School regularly in her school days and there was no forcible sexual assault by the petitioner.

6. A Joint Memo of Compromise filed before this Court signed by the petitioner and the second respondent and their respective counsels. The petitioner and the second respondent present before this Court, identified by Ms.K.Amutha, All Women Police Station, Oddanchathiram, Dindigul District, as well as by the learned counsel appearing for the parties. This Court enquired both the parties, satisfied that the parties

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have come to an amicable settlement between themselves on their own voluntarily without any compulsion.

7. In the instant case, the dispute is of personal in nature. Where the parties have compromised the matter, the High Court has power to quash the complaint for the offence under Sections 376 and 417 IPC, considering the volunteriness, conscious and consensual relationship.

8. The legal position expressed by the Hon'ble Apex Court in the case of ***Gian Singh vs. State of Punjab and another*** reported in ***(2012) 10 SCC 303*** and ***Parbatbhai Aahir @ Parbatbhai Vs. State of Gujarat)*** reported in ***(2017) 9 SCC 641*** were taken into consideration.

9. In the light of the guidelines issued in the above said judgments of the Hon'ble Apex Court, no useful purpose will be served in keeping the proceedings in P.R.C.No.43 of 2023 as against the petitioner pending before the Judicial Magistrate Court, Ottanchatram, even though, the offences involved are not compoundable in nature.

10. Accordingly, this Criminal Original Petition is allowed and the proceedings in P.R.C.No.43 of 2023, on the file of the learned Judicial Magistrate, Ottanchatram, is quashed as against the petitioner

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and the joint compromise memo shall form part and parcel of this order.

Consequently, connected miscellaneous petition is closed.

20.11.2024

NCC : Yes / No
Index : Yes / No
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To

1.The Judicial Magistrate Court, Ottachatram

2.The Inspector of Police,
All Women Police Station,
Ottanchatram, Dindigul District,

2.The Additional Public Prosecutor,
Madurai Bench of Madras High Court,
Madurai.

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M.NIRMAL KUMAR, J.

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