



Crl.O.P.(MD)No.2380 of 2024

BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

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DATED : 18.06.2024

CORAM :

THE HON'BLE MR.JUSTICE B.PUGALENDHI

Crl.O.P.(MD)No.2380 of 2024

and

Crl.M.P.(MD)No.1843 of 2024

1.Arthi Kannan

2.Piratti

3.Kumar

... Petitioners

Vs.

1.State represented by
The Inspector of Police,
All Women Police Station,
Thoothukudi District.
(Crime No.8 of 2023)

2.XXXXXX

... Respondents

Prayer : Criminal Original Petition filed under Section 482 of the Code of Criminal Procedure, to call for the records pertaining to the impugned First Information Report in Crime No.8 of 2023 on the file of the first respondent and quash the same.

For Petitioners

: Mr.K.Navaneetharaja



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For R1 : Mr.M.Sakthi Kumar,
Government Advocate(Crl.side)

For R2 : Mr.M.Kaushikan

ORDER

The petitioners are accused in Crime No.8 of 2023 on the file of the first respondent for the offences under Sections 9 and 10 of Child Marriage Act r/w Section 5(I) of POCSO Act, 2012. They have filed the present petition to quash the proceedings pending against him.

2.The case the prosecution is that the defacto complainant, who is minor girl, had love affair with one Paul Sudhakar and hence, her parents arranged marriage for her with the first petitioner herein. Thereafter, she left the matrimonial home and went along with the said Paul Sudhakar and lodged the present complaint.

3.The petitioners and the defacto complainant are present before this Court and submitted that on the intervention of the elders, they have amicably resolved their issue. A compromise memo, dated 02.12.2023 signed by the parties, is also filed before this Court.



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4. Before entertaining this application on the ground of compromise, this Court has directed the investigation officer in Crime No.8 of 2023 to personally verify with the defacto complainant and to ascertain whether the compromise is a voluntary one, without any threat or coercion. The investigating officer, after due verification, has filed a report as under:

This is to certify that, as directed by this Court in CrI.O.P.(MD)No.2380 of 2024, I personally verified the defacto complainant in Cr.No.8 of 2023 and ascertained that the compromise arrived between the accused and the defacto complainant/victims in the above case is voluntary, without any threat or coercion.

I further clarify that there are no other victims in this case, except the victims appeared before this Hon'ble Court today.

5. In Parbatbhai Aahir v. State of Gujarat [AIR 2017 SC 4843], the Hon'ble Supreme Court has issued the following guidelines:-

"(1) Section 482 CrPC preserves the inherent powers of the High Court to prevent an abuse of the process of any court or to secure the ends of justice. The provision does not confer new powers. It only recognises and preserves powers which inherent in the High Court.

(2) The invocation of the jurisdiction of the High Court to quash a first information report or a criminal proceeding on the ground that a settlement has been arrived at between



the offender and the victim is not the same as the invocation of jurisdiction for the purpose of compounding an offence. While compounding an offence, the power of the court is governed by the provisions of Section 320 CrPC. The power to quash under Section 482 is attracted even if the offence is noncompoundable.

(3) In forming an opinion whether a criminal proceeding or complaint should be quashed in exercise of its jurisdiction under Section 482, the High Court must evaluate whether the ends of justice would justify the exercise of the inherent power.

(4) While the inherent power of the High Court has a wide ambit and plenitude it has to be exercised (i) to secure the ends of justice, or (ii) to prevent an abuse of the process of any court.

(5) the decision as to whether a complaint or first information report should be quashed on the ground that the offender and victim have settled the dispute, revolves ultimately on the facts and circumstances of each case and no exhaustive elaboration of principles can be formulate.

(6) In the exercise of the power under Section 482 and while dealing with a plea that the dispute has been settled, the High Court must have due regard to the nature and gravity of the offence. Heinous and serious offences involving mental depravity or offences such as murder, rape and dacoity cannot appropriately be quashed though the victim or the family of the victim have settled the dispute. Such offences are, truly speaking, not private in nature but have a serious



impact upon society. The decision to continue with the trial in such cases is founded on the overriding element of public interest in punishing persons for serious offences.

(7) As distinguished from serious offences, there may be criminal cases which have an overwhelming or predominant element of a civil dispute. They stand on a distinct footing insofar as the exercise of the inherent power to quash is concerned.

(8) Criminal cases involving offences which arise from commercial, financial, mercantile, partnership or similar transactions with an essentially civil flavour may in appropriate situations fall for quashing where parties have settled the dispute.

(9) In such a case, the High Court may quash the criminal proceeding if in view of the compromise between the disputants, the possibility of a conviction is remote and the continuation of a criminal proceeding would cause oppression and prejudice; and

(10) There is yet an exception to the principle set out in Propositions (8) and (9) above. Economic offences involving the financial and economic well-being of the State have implications which lie beyond the domain of a mere dispute between private disputants. The High Court would be justified in declining to quash where the offender is involved in an activity akin to a financial or economic fraud or misdemeanour. The consequences of the act complained of upon the financial or economic system will weigh in the balance."



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6.The victim, who is present before this Court states that she had love affair with one Paul Sudhakar and in order to prevent her from marrying him, her parents arranged marriage with the first petitioner. Therefore, after marriage, she left the matrimonial house and lodged the present complaint alleging that she was minor and the accused had solemnized her marriage with the first petitioner. Now, she states that she attained major and married the said Paul Sudhakar and she also claims that she is not willing to prosecute the present case further.

7.Considering the statement of the defacto complainant, this Court is inclined to quash the proceedings pending against the accused.

8.In view of the same, by recording the compromise memo dated 02.12.2023 this criminal original petition is allowed and the case in Crime No.8 of 2023 on the file of the first respondent is hereby quashed. The joint compromise memo dated 22.08.2023 shall form part and parcel of this order. Consequently, connected miscellaneous petition is closed.

18.06.2024

NCC : Yes/No

Index : Yes/No

Internet:Yes

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<https://www.mhc.tn.gov.in/judis>



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1. The Inspector of Police,
All Women Police Station,
Thoothukudi District.
- 2.The Additional Public Prosecutor,
Madurai Bench of Madras High Court,
Madurai.



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B.PUGALENDHI,J

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