



CRL OP(MD). No.3813 of 2023

BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

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Dated : 23.08.2024

CORAM

The Hon`ble Mr.Justice D.BHARATHA CHAKRAVARTHY

CRL OP(MD). No.3813 of 2023
and
CrI.M.P.(MD)No.3390 of 2023

1.Mariappan

2.Ponraj

3.Shanugathathai @ Shanmugathai

4.Latha

... Petitioners

Vs.

1.The State rep. By

The Inspector of Police,
Puliangudi Police Station,
Tenkasi District.

(Crime No.179 of 2022)

2.Gurupakkiam

3.XXXXXX

... Respondents

PRAYER :- This Petition is filed under Section 482 Cr.P.C, to call for the records pertaining to the impugned F.I.R in Crime No.179 of 2022, dated 24.04.2022 on the file of the first respondent police and to quash the same as illegal.



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For Petitioners : Mr.S.Ramachandran

For Respondents : Mr.A.Albert James
Government Advocate (Crl.Side) for R1

: Mr.A.Arputharaj for R3

: No appearance for R2

ORDER

The Criminal Original Petition is filed to quash the F.I.R in Crime No.179 of 2022 on the file of the first respondent.

2. The learned counsel for the petitioners would submit that the case is under POCSO Act. The petition is filed originally to quash the first Information Report in Crime No.179 of 2022. Now, it is charge sheeted and pending as Special C.C.No.156 of 2023 on the file of the Special Court under the POCSO Act cases, Tirunelveli.

3. The learned counsel for the petitioners would submit that the parties, namely the defacto complainant and the petitioners have since settled the issue before this Court. The first petitioner, namely, Mariappan and the victim, namely Danusia, are present before this Court. Both the parents are also present.



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4. The learned counsel for the victim/ third respondent would submit that the first petitioner and the victim have married with each other and they also got a female child, namely Midhunya born on 10.10.2023. The husband is also having a shop, selling paints on retail basis. They are living as a family. Therefore, she requests that she does not want to pursue the case further and prays that this Court may quash the case and drop all further proceedings.

5. In a case of this nature, this Court will not go as per the version of the defacto complainant alone. When the offence / complaint is serious in nature, the case cannot be quashed on the mere consent by the defacto complainant and by virtue of the ratio laid down by the Hon'ble Supreme Court of India in ***Gian Singh vs State of Punjab & Another*** reported in ***2012(10) SCC303*** and followed in the later judgments, this Court has to consider the overall facts and circumstances of the case, while considering the exercise of jurisdiction under Section 482 of the Code of Criminal Procedure, while quashing the case.



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6. Accordingly, this Court went through the final report filed by the respondent police and the statements of relevant witnesses. It can be seen that the occurrence was in the year 2022 and at that point of time, the victim was 17 years old. From the nature of the statement given, it can be concluded that there was no any enticement. The wholesome reading of the entire evidence on records reveals that it is the case of a relationship being developed and a marriage being performed between the parties

7. In view of the said facts and circumstances of this case and considering this case as an extraordinary nature, even though the offence comes within the pigeonhole of POCSO Act, which is a serious offence, but, the nature of allegations and the evidence on record and the charge laid, would reveal the fact of the first petitioner / accused not waiting for the defacto complainant to complete 18 years and to have married her prematurely at the age of 17 itself. Both sides parents were also involved in the marriage and cajoled both the petitioners as well as the victim to be part of the relationship. Considering this as an extraordinary case, the court is inclined to quash the proceedings.



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8. Accordingly, this Petition is allowed. The charge sheet in Special C.C.No.156 of 2023 on the file of the Special Court under the POCSO Act Cases, Tirunelveli, in connection with Crime No.179 of 2022, is hereby quashed. Consequently, connected Miscellaneous Petition is closed.

23.08.2024

Internet : Yes
Index : Yes/ No
NCC : Yes/No
LS

TO

1. The Special Court under the POCSO Act Cases,
Tirunelveli.
- 2.The Inspector of Police,
Puliangudi Police Station,
Tenkasi District.
3. The Additional Public Prosecutor,
Madurai Bench of Madras High Court,
Madurai.



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D.BHARATHA CHAKRAVARTHY,J

LS

ORDER
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