



CrI.O.P.(MD)No.2713 of 2024

BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

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DATED : 29.07.2024

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THE HON'BLE MR.JUSTICE B.PUGALENDHI

CrI.O.P.(MD)No.2713 of 2024

and

CrI.M.P.(MD)No.2111 of 2024

Angappan @ Arun

... Petitioner

versus

1. The Inspector of Police,
Tirunleveli Junction Police Station,
Tirunelveli District.

... 1st respondent/
Complainant

2. Muruga Saraswathi

... 2nd respondent/
defacto complainant

3. xxxxxx

... 3rd respondent/
victim

Prayer : Criminal Original Petition filed under Section 482 Cr.P.C. to call for the records of the impugned charge sheet in Spl.C.C.No. 86 of 2023 on the file of the learned Sessions Judge, Special Court for POCSO Cases, Tirunelveli and quash the same as illegal.



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For Petitioner : Mr.V.Angusamy
For R1 : Mr.P.Kottaichamy
Government Advocate (Crl. Side)
For R2 and R3 : M/s.C.Geetha

ORDER

The petitioner, who is the accused in Crime No.345 of 2022, on the file of the first respondent Police Station, for the offence under Sections 7 and 8 of Protection of Children from Sexual Offences Act, 2012 r/w. Section 366 IPC, has moved this Criminal Original Petition to quash the proceedings in Spl.CC.No.86 of 2023 on the file of the learned Sessions Judge, Special Court for POCSO Cases, Tirunelveli, pending against him.

2. Originally, the above case has been registered as “girl missing” based on the complaint given by the defacto complainant on 20.12.2022, alleging that her minor daughter, who went to the College, had not returned home. On the investigation, it revealed that the petitioner and the victim girl loved each other and that the victim girl has eloped with the petitioner. Therefore, the case has



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been altered under Sections 7 and 8 of Protection of Children from Sexual Offences Act, 2012 r/w. Section 366 IPC. At the time of occurrence, the victim girl was aged about 17 years.

3. The learned counsel appearing for the petitioner as well as the learned counsel appearing for the victim girl submit that the defacto complainant/mother of the victim has arranged the marriage for her daughter with the petitioner and their marriage was solemnized on 24.05.2023. They have also registered their marriage before the Registrar of Marriage, Melapalayam. The Certificate of Registration of Marriage is produced before this Court. Therefore, they have filed a Joint Compromise Memo before this Court.

4. Before entertaining this application on the ground of compromise, this Court has also directed the investigating officer namely, the Inspector of Police, Tirunleveli Junction Police Station, Tirunelveli District, in Crime No.345 of 2022 to personally verify with the defacto complainant and the victim girl and to ascertain



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whether the compromise is a voluntary one and without any threat or coercion. The investigating officer after due verification has filed her report as under:

This is to certify that, as directed by this Court in CrI.O.P.(MD)No.2713 of 2024, I personally verified the defacto complainant and the victim girl in Cr.No. 345 of 2022, registered for the offence under Sections 7 and 8 of Protection of Child from Sexual Offences Act, 2012 r/w. section 366 IPC and ascertained that the compromise arrived at between the accused and the victim girl 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 victim appeared before this Hon'ble Court today.

5. This Court, while dealing with a similar situation, in the case reported in **(2021) 2 CTC 191**, in ***Vijayalakshmi and others Vs The Inspector of Police, All Women Police Station, Erode and others***, has held as follows:-



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“17. This Court is not turning a blind eye to cases where the victim or survivor may, under the effect of trauma that they have undergone, studies on which show that they might tend to reconcile with the same by blaming themselves or convincing themselves that the element of consent was infact present. Nor is this Court scientifically justifying in toto, the genuineness or predicament of the accused in every case where it appears that the accused and victim child have been in a romantic relationship. That will depend on the facts and circumstances of each and every case.

18. In the present case, the 2nd Petitioner who was in a relationship with the 2nd Respondent who is also in his early twenties, has clearly stated that she was the one who insisted that the 2nd Respondent take her away from her home and marry her, due to the pressure exerted by her parents. The 2nd Respondent, who was placed in a very precarious situation decided to concede to the demand of the 2nd Petitioner. Thereafter, they eloped from their respective homes, got married and consummated the marriage. Incidents of this nature keep occurring regularly even now in villages and towns and occasionally in cities. After the parents or family lodge a



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complaint, the police register FIRs for offences of kidnapping and various offences under the POCSO Act. Several criminal cases booked under the POCSO Act fall under this category. As a consequence of such a FIR being registered, invariably the boy gets arrested and thereafter, his youthful life comes to a grinding halt. The provisions of the POCSO Act, as it stands today, will surely make the acts of the boy an offence due to its stringent nature. An adolescent boy caught in a situation like this will surely have no defense if the criminal case is taken to its logical end. Punishing an adolescent boy who enters into a relationship with a minor girl by treating him as an offender, was never the objective of the POCSO Act. An adolescent boy and girl who are in the grips of their hormones and biological changes and whose decision-making ability is yet to fully develop, should essentially receive the support and guidance of their parents and the society at large. These incidents should never be perceived from an adult's point of view and such an understanding will in fact lead to lack of empathy. An adolescent boy who is sent to prison in a case of this nature will be persecuted throughout his life. It is high time that the legislature takes into consideration cases of



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this nature involving adolescents involved in relationships and swiftly bring in necessary amendments under the Act. The legislature has to keep pace with the changing societal needs and bring about necessary changes in law and more particularly in a stringent law such as the POCSO Act.

19. The main issue that requires the consideration of this Court is as to whether this Court can quash the criminal proceedings involving noncompoundable offences pending against the second respondent. The Hon'ble Supreme Court in the case of Parbathbhai Aahir @ Parbathbhai Vs. State of Gujrath, reported in 2017 9 SCC 641 and in case of The State of Madhya Pradesh Vs. Dhruv Gurjar and Another reported in (2019) 2 MLJ CrI 10, has given sufficient guidelines that must be taken into consideration by this Court while exercising its jurisdiction under Section 482 of Cr.P.C, to quash non-compoundable offences. One very important test that has been laid down is that the Court must necessarily examine if the crime in question is purely individual in nature or a crime against the society with overriding public interest. The Hon'ble Supreme Court has held that offences against the society with overriding public interest even if it gets



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settled between the parties, cannot be quashed by this Court.

20. In the present case, the offences in question are purely individual/personal in nature. It involves the 2nd Petitioner and the 2nd Respondent and their respective families only. It involves the future of two young persons who are still in their early twenties. The second respondent is working as an Auto driver to eke his livelihood. Quashing the proceedings, will not affect any overriding public interest in this case and it will in fact pave way for the 2nd Petitioner and the 2 nd Respondent to settle down in their life and look for better future prospects. No useful purpose will be served in continuing with the criminal proceedings and keeping these proceedings pending will only swell the mental agony of the victim girl and her mother and not to forget the 2nd Respondent as well.”

6. This is also a similar case that of the above case. The victim girl, who is present before this Court states that she had a love affair with the petitioner and her mother has also solemnized her marriage with the petitioner on 24.05.2023. The defacto complainant/mother of the victim girl has also confirmed that she is not inclined to



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prosecute this case further.

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7. Since the victim girl and the petitioner/accused got married and also considering the statement of the defacto complainant, this Court is inclined to quash the proceedings pending against the petitioner.

8. In view of the above, by recording the joint compromise memo dated 28.02.2024 filed by the parties, this criminal original petition is allowed and the case in Spl.C.C.No.86 of 2023, pending on the file of the learned Sessions Judge, Special Court for POCSO Cases, Tirunelveli. is hereby quashed. The joint compromise memo shall form part and parcel of this order. Consequently, connected miscellaneous petition is closed.

29.07.2024

Index : Yes / No.

Internet: Yes / No.

NCC : Yes/No.

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B.PUGALENDHI, J.

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To

1. The Inspector of Police,
Tirunleveli Junction Police Station,
Tirunelveli District.
2. The Additional Public Prosecutor,
Madurai Bench of Madras High Court,
Madurai.

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