



CrI.O.P.(MD)No.5428 of 2024

BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

WEB COPY

DATED : 07.06.2024

CORAM :

THE HON'BLE MR.JUSTICE B.PUGALENDHI

CrI.O.P.(MD)No.5428 of 2024

1.Nithin

2.Vinu

3.Vinu Kumar

4.Justin Raj

... Petitioner

Vs.

1.The Inspector of Police,
All Women Police Station,
Colachel,
Kanyakumari District.
(Crime No.14 of 2018)

2.Maria Natchathiram

... Respondents

Prayer : Criminal Original Petition filed under Section 482 of the Code of Criminal Procedure, to call for the records pertaining to the impugned proceedings in Spl.S.C.No.12 of 2020 on the file of the Special Court for POCSO Act, Nagercoil as against the petitioners and quash the same.

For Petitioners

: Mr.M.R.Sreenivasan

For R1

: Mr.P.Kottaichamy,
Government Advocate(CrI.side)

For R2

: Mr.M.Karuppasamy



CrI.O.P.(MD)No.5428 of 2024

ORDER

WEB COPY

The petitioners are accused in Spl.S.C.No.12 of 2020 on the file of the Special Court for exclusive trial of POCSO Act cases, Nagercoil for the offences under Sections 366(A), 114 IPC and Sections 17, 5(j)(ii), 5(1), 6 of the Protection of Children from Sexual Offences Act, 2012. They have moved this petition to quash the proceedings pending against them.

2.The case of the prosecution is that the second respondent's daughter, who is the minor, went missing and hence, she lodged a complaint. After investigation, it came to the light that the daughter of the second respondent had love affair with the first petitioner and they eloped.

3.On the intervention of the elders, the petitioners and the defacto complainant have amicably resolved their issue and further, the first petitioner and the victim girl got married and they blessed with one female child. A compromise memo, dated 23.04.2024 signed by the parties, is also filed before this Court.

4.Before entertaining this application on the ground of compromise, this Court has directed the investigation officer in Crime No.14 of 2018 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.5428 of 2024, I personally verified the defacto complainant in Cr.No.14 of 2018/Spl.S.C.No.12 of 2020 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.This Court, while dealing with similar situation, in ***Vijayalakshmi and Ors Vs State and Ors*** reported in ***(2021) 2 CTC 191***, has held as follows:-

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 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 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 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 2nd 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, who is present before this Court states that she had love affair with the first petitioner and she went with the first petitioner on her own volition, since the defacto complainant was arranging marriage for her. She also states that she has attained 18 years and herself and the first petitioner got married. They are having a female child and they are leading a peaceful life. On the complaint of the mother of the victim, this case was registered. The mother of the victim has also confirmed that she is not inclined to prosecute this case any further.

7.Since the victim and the first accused got married and they are also having a child and considering the statement of the defacto complainant, this



Crl.O.P.(MD)No.5428 of 2024

Court is inclined to quash the proceedings against the accused in Spl.S.C.No. 12 of 2020 on the file of the learned Special Court for POCSO Act, Nagercoil.

8.In view of the above, by recording the compromise memo dated 23.04.2024, filed by the parties, this criminal original petition is allowed and the case in Spl.S.C.No.12 of 2020 on the file of the learned Special Court for exclusive trial of POCSO Act cases, Nagercoil is hereby quashed. The joint compromise memo dated 23.04.2024, shall form part and parcel of this order.

07.06.2024

Index : Yes/No
Internet: Yes
gns

To

- 1.The Sessions Judge, Special Court for exclusive trial of POCSO Act cases, Nagercoil.
- 2.The Inspector of Police,
All Women Police Station,
Colachel, Kanyakumari District.
- 3.The Additional Public Prosecutor,
Madurai Bench of Madras High Court,
Madurai.



WEB COPY



CrI.O.P.(MD)No.5428 of 2024

B.PUGALENDHI,J

gns

CrI.O.P.(MD)No.5428 of 2024

07.06.2024