



CRL.O.P (MD) No.6080 of 2023

BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

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DATED: 19.10.2024

CORAM

THE HON'BLE MR.JUSTICE D.BHARATHA CHAKRAVARTHY

CRL.O.P (MD) No.6080 of 2023

R.Arul Joseph Stalin

... Petitioner

Vs

**1. The Inspector of Police,
Nithiravilai Police Station
Kanniyakumari District.**

2. Mrs.Pitchy

3. xxxxxxxxxxxx

... Respondents

PRAYER: Criminal Original Petition filed under Section 482 of Cr.P.C, praying to call for records in Spl.S.C.No.52 of 2017 on the file of the Special Court for POCSO Case, Nagercoil, Kanniyakumari District and quash the same.

For Petitioner : Mr.V.Balaji Rajaram

**For R-1 : Mr.A.Albert James
Government Advocate (Crl. Side)**

For R-2 : Mr.S.Arul



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ORDER

This Criminal Original Petition is filed to quash the impugned charge sheet in Spl.S.C.No.52 of 2017 on the file of the Special Court for POCSO Case, Nagercoil, Kanniyakumari District.

2. The learned Counsel for the petitioner seeks quashment of the case on compromise. The joint compromise memo is also filed. The petitioner and the defacto complainant, who is the mother of the victim, were present before this Court. The victim is at present working as a Nurse in Saudi Arabia and she also appeared before this Court virtually. Both the victim as well as her mother expressed that the case need not be continued further and that she does not want to pursue the allegations. It is stated that the petitioner and the victim are married and they are living together.

3. This is an offence under the Protection of Children from Sexual Offences Act (POCSO) Act, 2012. As per the dictum laid down by the Supreme Court of India in the case of ***Gian Singh Vs. State of Punjab***



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and others, this Court cannot go as per the version of the prosecutrix alone. This Court has to take into consideration the overall facts and circumstances of the case and thereafter, decide whether it is a fit case for exercising the powers or not.

4. On perusal of the statement, it can be seen that the victim and the other statements would point out that this is a case where the victim's child and the petitioner started a relationship which resulted in a marriage, albeit before the statutory age limit of 18 years. The victim was 17 years of age at the time of offence. Now, the victim does not want to pursue the case and both of them are also living together as a family and she is also pursuing her career as a Nurse in Saudi Arabia.

5. Considering the overall facts and circumstances of the case, I am of the view that this case falls within one of the exceptions where this Court can exercise its extraordinary power under Section 482 of Cr.P.C., and quash the case. Further, when the defacto complainant is not supporting the case of the prosecution any further, the chances of prosecution getting a conviction in this case is also nil. More



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specifically, after going through the statement of the victim at the relevant point of time and considering that the date of birth of the victim was 08.12.1999, I am inclined to exercise the power under Section 482 of the Code of Criminal Procedure, to quash the proceedings.

6. For all the above reasons, the case in Spl.S.C.No.52 of 2017 pending on the file of the Special Courts of POCSO Case, Nagercoil, Kanniyakumari District, shall stand quashed. The joint compromise memo shall form part and parcel of the order.

7. Accordingly, this Criminal Original Petition is allowed.

19.10.2024

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

jbr



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To

1. The Inspector of Police,
Nithiravilai Police Station
Kanniyakumari District.
2. The Additional Public Prosecutor,
Madurai Bench of Madras High Court,
Madurai.



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D.BHARATHA CHAKRAVARTHY,J

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