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Crl.O.P.(MD)No.11809 of 2022

BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

DATED: **14.03.2024**

CORAM:

THE HONOURABLE MR.JUSTICE **M.DHANDAPANI**

Crl.O.P.(MD) No.11809 of 2022

and

Crl.M.P.(MD)Nos.14899 and 14900 of 2022

Stephen Raj

... Petitioner/Sole Accused

Vs.

1.The Deputy Superintendent of Police,
Puliyangudi Range,
Tirunelveli District.

2.The Inspector of Police,
Vasudevanallur Police Station,
Vasudevanallur.
Tirunelveli District.

Crime No.205 of 2019 ... Respondents 1 and 2/Complainants

3.Guru Backiyam
Establishment Officer for Social Welfare,
Vasudevanallur,
Tirunelveli District.

... 3rd Respondent/Defacto Complainant

PRAYER: Criminal Original Petition is filed under Section 482 of Cr.P.C, to call for the records pertaining to the impugned charge sheet filed in Spl.S.C.No.15 of 2020, dated 03.10.2019 on the file of the Special Court for POCSO Trial Cases, Tirunelveli for the offences under Section 376 of IPC and Section 5(l), 5(j)(ii) and 6 of POCSO Act, 2012 @ Sections 376 of IPC, 5(l), 5(j)(ii) and 6 of POCSO Act, 2012 and 3(1)



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(w)(i) of the SC/ST Amendment Act, 2015 and quash the same as illegal.

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For Petitioner : Mr.P.M.Vishnuvarthanan
For R-1 & R-2 : Mr.S.Manikandan
Government Advocate (Crl. side)

ORDER

This petition has been filed seeking to quash the proceedings in Spl.S.C.No.15 of 2020 on the file of the learned Special Court for POCSO Trial Cases, Tirunelveli.

2.It is seen that the third respondent lodged a complaint against the petitioner before the second respondent police and the same was registered in Crime No.205 of 2019 and after completion of investigation, the second respondent police filed the charge sheet before the learned Special Court for POCSO Trial Cases, Tirunelveli and the same was taken on file in Spl.S.C.No.15 of 2020 for the alleged offences punishable under Sections 376 of IPC and Section 5(l), 5(j)(ii) and 6 of POCSO Act, 2012 @ Sections 376 of IPC, 5(l), 5(j)(ii) and 6 of POCSO Act, 2012 and 3(1)(w)(i) of the SC/ST Amendment Act, 2015

3.When the matter was taken up for hearing, the petitioner and the victim girl were also present in person before this Court and



stated that they are living together and the parties were duly identified by M/s.P.Aviveena, Sub Inspector of Police, Vasudevanallur Police Station, Tenkasi District. This Court also enquired both the parties and was satisfied that the parties have come to an amicable settlement between themselves.

4. When such a situation arose in similarly placed matters in Crl.O.P.(MD) Nos.406, 530 and 864 of 2016 (Prabu and others vs. State Rep. By The Inspector of Police and others), decided on 28.01.2016, this Court considered the various decisions rendered by the Hon'ble Supreme Court in this regard in several cases, namely, Gian Singh vs. State of Punjab and another [(2012) 10 SCC 303], B.S.Joshi vs. State of Haryana [(2003) 4 SCC 675], Nikhil Merchant vs. CBI [(2008) 9 SCC 677], Narinder Singh and others vs. State of Punjab and another [(2014) 6 SCC 466] and State of Madhya Pradesh vs. Manish and others [(2015) 8 SCC 307] and observed as under:

“11. If the offences against women and children and the IPC offences falling under the categories, like, murder, attempt to murder, offence against unsound mind, rape, bribe, fabrication of documents, false evidence, robbery, dacoity, abduction, kidnapping, minor girl rape, idol theft, preventing a public servant from discharging of his/her duty, outrage of woman modesty, counterfeiting currency notes or bank notes, etc., are allowed to be compounded, it will surely have serious repercussion on the society, as the above mentioned list is only



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illustrative and not exhaustive. Similarly, any compromise between the victim and the offender in relation to the offences clubbed with Special Enactment, like Arms Act, the Prevention of Corruption Act, TNPPDL Act, TNPID Act or the offences committed by Public Servants while working in that capacity, etc., cannot provide for any basis for quashing criminal proceedings involving such offences. As held by the Apex Court, insofar the offences arising out of matrimonial dispute, relating to dowry or the family disputes where the wrong is basically private or personal in nature, are concerned, the possibility of conviction is remote and bleak, in case the parties resolve their entire disputes amicably among themselves. This Court feels that there cannot be any compromise in respect of the heinous and serious offences of mental depravity and in that case, the Court should be very slow in accepting the compromise. If the compromise is entertained mechanically by the Court, the accused will have the upper hand. The jurisdiction of this Court may not be allowed to be exploited by the accused, who can well afford to wait for a logical conclusion. The antecedents of the accused have also to be taken into consideration before accepting the memo of compromise and the accused, by means of compromise, cannot try to escape from the clutches of law.

5. Taking note of the judgments referred to supra, considering the nature of allegations and the petitioner and the victim girl are living happily in the matrimonial home, this Court is of the opinion that no useful purpose would be served in keeping the matters pending. Therefore, the entire proceedings in Spl.S.C.No.15 of 2020, on the file of the learned Special Court for POCSO Trial Cases, Tirunelveli, is hereby quashed.



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6.Accordingly, this Criminal Original Petition is allowed.

Consequently, connected miscellaneous petitions are closed.

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Index : Yes/No

Internet : Yes/No

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To

1.The Special Court for POCSO Trial Cases, Tirunelveli.

2.The Deputy Superintendent of Police,
Puliyangudi Range,
Tirunelveli District.

3.The Inspector of Police,
Vasudevanallur Police Station,
Vasudevanallur.
Tirunelveli District.

4.The Additional Public Prosecutor,
Madurai Bench of Madras High Court,
Madurai.



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M.DHANDAPANI. J.

Sji

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