



CrI.O.P(MD)No.23146 of 2022

BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

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DATED: **25.10.2024**

CORAM

THE HON'BLE MR.JUSTICE D.BHARATHA CHAKRAVARTHY

CRL.OP(MD). No.23146 of 2022

Rajeshkannan

... Petitioner / Sole Accused

Vs.

1. The State,
Rep by the Inspector of Police,
Allinagaram Police Station,
Theni District.
(Crime No.385 of 2018)

... 1st Respondent / Complainant

2. Akkim

... 2nd Respondent /
De-facto Complainant

PRAYER: Criminal Original Petition filed under Section 482 of the Code of Criminal Procedure, to call for the records in Spl.S.C.No.7 of 2019 pending on the file of the learned Mahila Fast Track (Additional District and Sessions Judge, Theni) and to quash the same in respect of the petitioner/accused.

For Petitioner : M/s.Manickam.R

For R-1 : M/s.M.Aasha



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Government Advocate (Crl. Side)

For R2 : Mr.M.Sridharan

ORDER

This Criminal Original Petition has been filed with the prayer to call for the records in Spl.S.C.No.7 of 2019 pending on the file of the learned Mahila Fast Track (Additional District and Sessions Judge, Theni) and to quash the same.

2. The learned counsel for the petitioner seeks quashment on compromise. The joint compromise memo is also filed. Both parties are present.

3. The prosecutrix/victim child and the petitioner submit that they are now married and living together as a family. They have also got a male child born on 09.06.2024. The victim child's date of birth is 18.04.2004. She has attained majority. She submits that she is not pressing the allegations which she made. The case is under POCSO Act, as such serious in nature. In this serious kind of offence, the Court cannot go as per the version of the prosecutrix alone. However, as per the



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dictum of the Honourable Supreme Court of India in ***Gian Singh -vs- State of Punjab & Another*** reported in **2012(10) SCC303**, the Court has to take into consideration the gravamen of the offence and the nature of the case and then decide.

4. I have gone through the statement of the witnesses, etc., which are made in the instant case. It can be seen that this is a case of parties developing a relationship which ended in marriage, and before the statutory age of 18 years. The prosecutrix was more than 16 years of age as on date of occurrence. Considering the overall facts and circumstances of the case, treating it as an extraordinary case, this Court considers this is a fit case for exercise its power under Section 482 of the Code of Criminal Procedure.

5. Accordingly, this Criminal Original Petition shall stand allowed. The case in Spl.S.C.No. 7 of 2019 pending on the file of the learned Mahila Fast Track (Additional District and Sessions), Theni and now the case is transferred and pending as Spl. S.C. No. 18 of 2023 before the learned Special Judge for POCSO Act cases, Theni shall stand quashed.



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The joint compromise memo shall form part and parcel of the order.

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6. In the result, this Criminal Original Petition stands allowed.

25.10.2024

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

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To

1. The Inspector of Police,
Allinagaram Police Station,
Theni 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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Order made in
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25.10.2024