



Crl.O.P.(MD)No.10990 of 2024

BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

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DATED : 02.08.2024

CORAM :

THE HON'BLE MR.JUSTICE B.PUGALENDHI

Crl.OP(MD) No.10990 of 2024

S.Dhinesh

... Petitioner

Vs

1.The Sub Inspector of Police,
All Women Police Station,
Musiri,
Tiruchirappalli District.
Crime No. 19/2021.

2.The Social Extension Officer,
Thottiyam Taluk, Trichy District.

3.Xxxx

...Respondents

Prayer : Criminal Original Petition filed under Section 482 of the Code of Criminal Procedure, to call for the records relating to S.C No. 12/2021 on the file of the learned Judge, Mahila Court, Trichirappalli and quash the same and pass such further or other orders.

For Petitioner

: Mr.N.Sudhagar Nagaraj.

For R1

: Mr.M.Sakthi Kumar

Government Advocate (Crl.side)

For R3

: Mr.S.Mohammed Bayas Ali.



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ORDER

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The petitioner, who is the accused in Crime No.19 of 2021, on the file of the first respondent Police, for the offence under Sections 9 of Prohibition of Child Marriage Act, 2006 and Sections 5(1), 6(1) of Protection of Children from Sexual Offences Act, 2012 has moved this Criminal Original Petition to quash the proceedings in SC.No.12 of 2022, on the file of the learned Judge, Mahila Court, Trichy, on the ground of compromise.

2.The above case has been filed based on the complaint given by the second respondent/Social Welfare officer, Trichy alleging that the petitioner has married a minor girl. According to the prosecution case, the victim girl was aged about 17 years at the time of marriage.

3.The second respondent/the Social Welfare officer, who is the complainant in this case is present before this Court and submits that the victim girl has now attained majority. The petitioner and the victim girl got married, living together peacefully and they are also having a seven months old male child. A memo, dated 02.08.2024 has also been filed by the Social Welfare officer to that effect.



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4.Before entertaining this application on the ground of compromise, this Court has directed the investigating officer namely the Sub Inspector of Police, All Women Police Station, Musiri, Tiruchirappalli in Crime No.19 of 2021 to personally verify with the parties and to ascertain whether the compromise is voluntary one, without any threat or coercion. The investigating officer has also duly verified the same.

5.The investigating officer after due verification has filed a report as under:

This is to certify that, as directed by this Court in Crl.O.P.(MD)No.10990 of 2024, I personally verified the defacto complainant in Spl.SC No. 12 of 202 and ascertained that the compromise arrived between the accused and the defacto complainant 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.



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6. A Joint compromise memo, dated 23.07.2024 signed by the respective parties have also been filed before this Court to that effect.

7.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:-

“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



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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



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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 Crl 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 2 nd Petitioner and the 2 nd 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.”

8.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 petitioner and now she attained majority. They are leading their life peacefully with their seven months old male baby. She also states that on the complaint of the Social Welfare Officer, this case was



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registered. The Social Welfare Officer has also confirmed that she is not inclined to prosecute this case further.

9.Since the victim and the accused got married and they are also having child and considering the statement of the complainant, this Court is inclined to quash the proceedings pending against the accused.

10.In view of the above, by recording the joint compromise memo filed by the parties, this criminal original petition is allowed and the case in S.C No. 12/2021, pending on the file of the Mahila Court, Trichirappalli is hereby quashed. The joint compromise memo shall form part and parcel of this order.

02.08.2024

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



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To

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- 1.The Mahila Court, Trichy
- 2.The Sub Inspector of Police,
All Women Police Station,
Musiri,
Tiruchirappalli District.
- 3.The Additional Public Prosecutor,
Madurai Bench of Madras High Court,
Madurai.



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B.PUGALENDHI,J

vrn

Order made in
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