



CrI.O.P.(MD) No.3557 of 2024

BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

DATED: 23.04.2024

CORAM

THE HON'BLE MR.JUSTICE B.PUGALENDHI

CRL.O.P (MD) No.3557 of 2024

and

CRL.M.P(MD).Nos.2813 & 2815 of 2024

C.Pandidurai

...Petitioner

Vs

**1.The State rep. by
The Inspector of Police,
Avaniyapuram Police Station,
Madurai District.
(Cr.No.883 of 2018)**

2.P.Rathika

3.XXXXX

...Respondents

PRAYER: Criminal Original Petition filed under Section 482 of Cr.P.C, praying to call for the records in connection with Charge Sheet in Spl.S.C.No.09 of 2021 on the file of Session Judge, Special Court for the Exclusive trial of POCSO Act cases, Madurai with in Crime No.883 of 2018 on the file of the 1st respondent police and consequently quash the same on the ground of amicably settled the issue forthwith.



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For Petitioner : Mr.P.Manokaran
For R1 : Mr.Kottaichamy
Government Advocate (Crl. Side)
For R2 : Mr.P.Preethesh

ORDER

The petitioner is accused in Spl.SC.No.09 of 2021 on the file of the learned Sessions Judge, Special Court for the Exclusive Trial of POCSO Act Cases, Madurai, which was registered for the offence under Section 366 (A) of IPC, Sections 6 and 5(1) of POCSO Act, 2012. The petitioner had filed this petition to quash the proceedings pending against him.

2. The case in Crime No.883 of 2018 was registered based on the complaint given by the defacto complainant on 22.12.2020 alleging that the petitioner had sexual intercourse with the de-facto complainant.

3. The learned counsel for the petitioner submits that the age of the girl is 18 years and it is a love affair. Further, he submitted that the petitioner and third respondent got married and now they are having 4 years



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old child.

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4. On the intervention of the elders, the petitioner and the defacto complainant have amicably resolved their issue and a Joint Compromise Memo dated 25.03.2024 signed by both the parties have also been filed before this Court to that effect.

5. Before entertaining this application on the ground of Compromise, this Court has directed the investigation officer, namely, M.Palanichamy, Inspector of Police, Avaniyapuram Police Station, Madurai City in Crime No.883 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.3557 of 2024, I personally verified the defacto complainant in Cr.No.883 of 2018, for the offence under Section 366 (A) of IPC, Sections 6 and 5(1) of POCSO Act, 2012 and ascertained that the compromise arrived between the accused and the defacto complainant/victims in



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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.

6. This Court, while dealing with a similar situation in the case reported in ***[2021] 2 CTC 191*** in ***Vijayalakshmi and Others vs State 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 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.



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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 FIR's 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.



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19. *The main issue that requires the consideration of this Court is as to whether this Court can quash the criminal proceedings involving non-compoundable 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."*



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7. 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 accused. She also states that after she attained 18 age, she and the accused got married. They are having 4 years old child and they are leading a peaceful life. On the complaint of the mother of the victim, the case was registered. The mother of the victim has also confirmed that she is not inclined to prosecute this case further.

8. Since the victim and accused got married and they are also having a four years old child and considering the statement of the defacto complainant, this Court is inclined to quash the proceedings pending against the accused in Spl.SC No.09 of 2021 pending on the file of the learned Sessions Judge, Special Court for the Exclusive Trial of POCSO Act Cases, Madurai.

9. Considering the welfare of the victim and the child, this Court is inclined to allow the application with cost of Rs.10,000/- (Rupees Ten Thousand only) to the defacto complainant. The defacto complainant is directed to pay Rs.10,000/- (Rupees Ten Thousand only) to the office of the



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Chief Educational Officer, Madurai. The said amount has to be utilized by the Chief Educational Officer, Madurai, for the purpose of installing a Smart Class Room in any of the remote School within Madurai District.

10. In view of the above, by recording the Joint Compromise Memo, dated 25.03.2024 filed by the parties, this criminal original petition is allowed and the case in Spl.SC.No.09 of 2021 pending on the file of the learned Sessions Judge, Special Court for the Exclusive Trial of POCSO Act Cases, Madurai, is hereby quashed. Consequently, connected miscellaneous petitions are closed. The Joint Compromise Memo dated 25.03.2024 shall form part and parcel of this order.

23.04.2024

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

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To

- 1.The Inspector of Police,
Avaniyapuram Police Station,
Madurai District.

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



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B.PUGALENDHI, J.

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