



Crl.O.P.(MD)No.16395 of 2024

BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

DATED: 12.11.2024

CORAM

THE HON'BLE MR.JUSTICE M.NIRMAL KUMAR

Crl.O.P.(MD)No.16395 of 2024

Ashivinas

... Petitioner

Vs.

1.The Inspector of Police,
All Women Police Station
Marthandam
Kanyakumari District

2. xxxxxx

3.xxxxxx

... Respondents

PRAYER : Criminal Original Petition filed under Section 528 of BNSS, 2023, to call for the records relating to the Spl.S.C. No.76 of 2021 on the file of the Special Court for POCSO Act Cases, Nagercoil and quash the same.

For Petitioner : Mr.M.Suri

For R1 : Mr.K.Sanjai Gandhi
Government Advocate (Crl. Side)

For R2 : Mr.S.Anto Cletus Raj



Crl.O.P.(MD)No.16395 of 2024

ORDER

WEB COPY

This Criminal Original Petition has been filed to quash the proceedings in Spl.S.C. No.76 of 2021 on the file of the Special Court for POCSO Act Cases, Nagercoil.

2. The case of the prosecution is that the petitioner on the false promise of marrying the victim girl has taken her in a bus to Nagercoil and thereafter has taken her to Chennai and stayed in his relatives house and committed penetrative sexual assault on the victim, hence the case has been registered.

3. The learned counsel appearing for the petitioner as well as the learned counsel appearing for the third respondent submitted that now, the petitioner and the third respondent/victim have settled the dispute between themselves amicably and the third respondent/victim is not willing to proceed further with the criminal case.

4. Today, when the matter was taken up for hearing a joint Memo of Compromise filed before this Court signed by the petitioner and the



Crl.O.P.(MD)No.16395 of 2024

third respondent and their respective counsels. The petitioner and the third respondent present before this Court, identified by Mrs. A. Florance Mary, WHC 42, AWPS, Marthandam as well as by the learned counsels appearing for the parties. This Court enquired both the parties, satisfied that the parties have come to an amicable settlement between themselves on their own voluntarily without any compulsion.

5. The third respondent had stated that both the petitioner and the third respondent got married on 20.07.2022 and the same was registered and a child was born to them and they are living happily in a separate house and she had intended to withdraw the complaint against the petitioner. She has also filed an affidavit. The relevant portion of the affidavit reads as follows: The relevant portion of the affidavit reads as follows:

“4. I submit that after I became major with my consent the petitioner had married me on 20.07.2022 and the same was registered before the Sub Registrar Office, Thuckalay and we are living peacefully and now we are having a child namely



Crl.O.P.(MD)No.16395 of 2024

Sharik Riyan, who born on 27.03.2023.. Now, we are living separately in peaceful manner from the family of the second respondent/defacto complainant who is my father of the victim

5. I submit that after the marriage we are living separately and thereby entered into compromise in the above said case.

6. I submit that such compromise has been taken place purely with an intention to settle the issue between us and it is purely on my voluntary. Hence, in order to avoid further ordeal of trial before the trial Court, this affidavit and joint compromise memo which has been filed which can be treated as part and parcel of the quash petition.....”.

6. The case has been registered for offences under Sections 366 of IPC and Sections 5(l) and 6 of POCSO Act. It is settled law that the High Court has inherent power under Section 482 of the Code of Criminal Procedure to quash the criminal proceedings even for the



Crl.O.P.(MD)No.16395 of 2024

offences which are not compoundable under Section 320 of the Code of Criminal Procedure, where the parties have settled their dispute between themselves. However, while quashing the criminal proceedings, based on the settlement arrived at between the parties, the High Court should act with caution and the power should be exercised sparingly only in order to secure the ends of justice and also to prevent abuse of process of any Court.

7. Further, the Hon'ble Apex Court in the case of ***K.Dhandapani Vs. The State by the Inspector of Police*** reported in ***2022 SCC Online SC 1056***, has held as follows:

“In the peculiar facts and circumstances of this case, we are of the considered view that the conviction and sentence of the appellant who is maternal uncle of the prosecutrix deserves to be set aside in view of the subsequent events that have been brought to the notice of this Court. This Court cannot shut its eyes to the ground reality and disturb the happy family life of the appellant and the prosecutrix. We have been informed about the



Crl.O.P.(MD)No.16395 of 2024

WEB COPY

custom in Tamilnadu of the marriage of a girl with the maternal uncle”.

8. The legal position expressed by the Hon'ble Apex Court in the case of ***Gian Singh vs. State of Punjab and another*** reported in (2012) ***10 SCC 303*** and ***Parbatbhai Aahir @ Parbatbhai Vs. State of Gujarat*** reported in (2017) ***9 SCC 641*** were taken into consideration.

9. Keeping the above principles in mind, let us now consider the instant case as to whether it is a fit case to quash the criminal proceedings based on the settlement arrived at between the parties.

10. In the case at hand, though the petitioner is charged with for the offences punishable under Sections 366 of IPC and Sections 5(1) and 6 of POCSO Act, now, the petitioner and the third respondent/victim have amicably settled their dispute between themselves . The third respondent/victim has also filed an affidavit stating that she has married the petitioner. In view of the compromise between the parties, the possibility of conviction is also remote and bleak. In the above



Crl.O.P.(MD)No.16395 of 2024

WEB COPY

circumstances, continuity of the criminal proceedings would only cause oppression and prejudice to the parties, hence, in order to secure the ends of justice, this Court is inclined to quash the criminal proceedings.

11. Accordingly, this Criminal Original Petition is allowed and the criminal proceedings initiated against the petitioner in Spl.S.C. No.76 of 2021 on the file of the Special Court for POCSO Act Cases, Nagercoil, is quashed and the terms of joint compromise memo and affidavit filed by the third respondent shall form part and parcel of this order.

NCC : Yes / No
Index : Yes / No
aav

12.11.2024

To

- 1.The Special Court for POCSO Act Cases, Nagercoil
- 2.The Inspector of Police,
All Women Police Station
Marthandam
Kanyakumari District
- 3.The Additional Public Prosecutor,
Madurai Bench of Madras High Court,
Madurai.



WEB COPY



Crl.O.P.(MD)No.16395 of 2024

M.NIRMAL KUMAR, J.

aav

Crl.O.P.(MD)No.16395 of 2024

12.11.2024