



Crl.O.P.(MD)No.16613 of 2024

BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

DATED: 12.11.2024

CORAM

THE HON'BLE MR.JUSTICE M.NIRMAL KUMAR

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1.Udhayakumar
2.Athilingam
3.Muthumariammal
4.Karuppasamy
5. Kannammal

... Petitioners

Vs.

1.The Inspector of Police,
Eppodumvendran Police Station
Tuticorin District

2. The Social Welfare Officer
Vilathikulam Division
Tuticorin District

3.xxxxxxx

... Respondents

PRAYER : Criminal Original Petition filed under Section 528 of BNSS, 2023, to call for the records and quash the charge sheet filed against the petitioners in STC No.436 of 2023 on the file of the District Munsif cum Judicial Magistrate Court, Ottapidaram in respect of Crime No.77 of 2019 on the file of the first respondent police.



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For Petitioner : Mr.N.Vignesh
For R1 : Mr.K.Sanjai Gandhi
Government Advocate (Crl. Side)
For R2 : Mr.B.Azhgesh

ORDER

This Criminal Original Petition has been filed to quash the proceedings in STC No.436 of 2023 on the file of the District Munsif cum Judicial Magistrate Court, Ottapidaram

2. The petitioners 2 and 3 are the parents of the first petitioner and the petitioners 4 and 5 are the parents of the victim girl and sixth petitioner is Dharmahatha of the Temple. The case of the prosecution is that the petitioners 2 to 5 arranged the marriage and in-furtherance of the same the 1st petitioner married the victim girl on 16-09-2019 at Arulmigu Aathilingeswarar Temple, Aathanur. According to the prosecution at the time of marriage the victim was 17 years old and her date of birth is 14- 03-2002, therefore the said marriage is child marriage and thereby the petitioners committed the alleged offence under Sections 9, 10 & 11 of Prohibition of Child Marriage Act, 2006. Therefore, the subject complaint came to be lodged by the second respondent before the



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first respondent and the same came to be registered in Crime No.77 of 2019 for the alleged offence under Section 9, 10 & 11 of Prohibition of Child Marriage Act, 2006. The first respondent upon completion of investigation filed final report for offences under Section 9, 10 & 11 of Prohibition of Child Marriage Act, 2006 before the District Munsif Cum Judicial Magistrate Court, Ottapidaram and the same is taken on file in S.T.C.No.436/2023.

3. The learned counsel appearing for the petitioners as well as the learned counsel appearing for the third respondent submitted that now, the petitioners 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 petitioners and the third respondent and their respective counsels. The petitioners and the third respondent present before this Court, identified by Mr.A.Chandrasehara Pandian, Sub Inspector of Police, Eppodumvendran



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Police Station, Thoothukudi District 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 first petitioner and the third respondent loved each other and they belong to same community and are close relatives and got married on 16.09.2019 assuming that the victim attained the age of majority and subsequently after attaining majority the marriage was solemnized on 06.05.2020 and the same was registered before the SRO, Ottapidaram, vide HMC No.9 of 2024 on 13.06.2024. She has also filed an affidavit. The relevant portion of the affidavit reads as follows: The relevant portion of the affidavit reads as follows:

“6. I submit that I and the first petitioner happily living as husband and wife and I have no objection to quash the case.....”.



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6. The case has been registered for offences under Sections 9,10,11 of the Child Marriage 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 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



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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 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 9,10,11 of the Child Marriage



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Act, now, the petitioners 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 first petitioner. In view of the compromise between the parties, the possibility of conviction is also remote and bleak. In the above 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 petitioners in STC No.436 of 2023 on the file of the District Munsif cum Judicial Magistrate Court, Ottapidaram, is quashed and the terms of joint compromise memo and affidavit filed by the third respondent shall form part and parcel of this order. Further A6 in this case namely Rajakani Devar died and hence the charge against him stands abated.

NCC : Yes / No
Index : Yes / No
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To
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- 1.The District Munsif cum Judicial Magistrate Court, Ottapidaram
- 2.The Inspector of Police,
Eppodumvendran Police Station
Tuticorin District
- 3.The Additional Public Prosecutor,
Madurai Bench of Madras High Court,
Madurai.



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M.NIRMAL KUMAR, J.

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