



Crl.O.P.(MD)No.16906 of 2024

BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

DATED: 08.11.2024

CORAM

THE HON'BLE MR.JUSTICE M.NIRMAL KUMAR

Crl.O.P.(MD)No.16906 of 2024

and

Crl.M.P(MD).Nos.10632 and 10633 of 2024

Ariharasuthan

... Petitioner

Vs.

State rep. by its:-

1.The Inspector of Police,
All Women Police Station,
(In Crime No.39 of 2023)
Kanniyakumari,
Kanniyakumari District.

2.Kalyani

3.XXXX

... Respondents

PRAYER : Criminal Original Petition filed under Section 528 of BNSS, to call for the records pertaining to Spl.S.C.No.18 of 2024 on the file of the Special Court for Exclusive Trial of Cases under POCSO Act, Nagercoil, Kanyakumari District, and quash the same as illegal in respect of the petitioner.



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For Petitioner	: Mr.A.Prasanna Rajadurai
For R1	: Mr.K.Sanjai Gandhi Government Advocate (Criminal Side)
For R2	: Mr.S.Ukkarapandian

ORDER

The Criminal Original Petition has been filed invoking Section 528 B.N.S.S., 2023, seeking orders to quash the proceedings in Spl.S.C.No.18 of 2024 pending on the file of the Special Court for Exclusive Trial of Cases under POCSO Act, Nagercoil, Kanyakumari District, in Crime No.39 of 2023 on the file of the first respondent Police.

2. The case of the prosecution is that on promising to marry the victim girl/third respondent, the petitioner had penetrative sexual assault on her and when the mother/defacto complainant of the victim girl questioned the same, the petitioner abused them and also threatened. Hence, the second respondent / de-facto complainant lodged a complaint and the same was registered in Crime No.39 of 2023 and after completion of investigation, charge sheet has been filed in Spl.S.c.No.18 of 2024 before the Special Court for Exclusive Trial of Cases under Pocso Act, Nagercoil, Kanyakumari.



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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 second and third respondents are 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 second and third respondents and their respective counsels. The petitioner and the second and third respondents present before this Court, identified by Ms.R.Merlin Thanga Ruba, WHC 303, AWPS, Kanniyakumari 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 second respondent had stated that her daughter and the petitioner would get married as per the caste and customs, after attaining



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the majority and the required age qualification as per the Marriage Law.

Now, they are living together and they have agreed to resolve issue and the second respondent intended to withdraw the complaint against the petitioner. She has also filed an affidavit. The relevant portion of the affidavit reads as follows:

“3. The petitioner/accused and the victim were lovers and she was 17 years and 9 months old on the time of the alleged occurrence. We jointly decided that my daughter and the petitioner/sole accused would get married as per the caste and customs, after attaining the majority and the required age qualification as per the Marriage Law. Presently, we are living together as one family. We have settled the misunderstanding and differences at the instances of well wishers and are now living together. Myself and the victim have agreed to resolved issue and dissolve this case by compounding, hence, quashing it by this Hon'ble Court for the sake of their happy matrimonial life. To that effect, we have also entered into a joint compromise memo.

4. my daughter/victim and the petitioner/sole accused have voluntarily resolved our dispute amicably and we are are living happily as one family presently in at Door No.2/19, Near David



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memorial CSI Church, Parappuvilai, Suchindram Post, Kanyakumari District 629 704 and my daughter/victim/third respondent herein and the petitioner/sle accused decided to be get married soon as per their own wish, after attaining the required age qualification as per the marriage law. I also whole heartedly accepted their will and wish for their future. In the said circumstances, the prosecution is not going to get any desired result and hence, in the interest of justice the criminal case may be quashed by this Court.

5. ”.

6. The case has been registered for offences under Sections 449, 294(b) and 506(i) of IPC r/w 5(1), 6, 14(1), 14(3) and 15 of Protection of Child from Sexual Offences Act, 2012 and 67A of Information Technology Act, 2000. 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



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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 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.



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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 449, 294(b) and 506(i) of IPC r/w 5(1), 6, 14(1), 14(3) and 15 of Protection of Child from Sexual Offences Act, 2012 and 67A of Information Technology Act, 2000, now, the petitioner and the second and third respondents have amicably settled their dispute between themselves . The second respondent/defacto complainant has also filed an affidavit stating that her daughter and the petitioner would get married, after attaining the majority. 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.



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11. Accordingly, this Criminal Original Petition is allowed and the criminal proceedings initiated against the petitioner in Spl.S.C. No.18 of 2024 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 second respondent shall form part and parcel of this order. Consequently, connected Miscellaneous Petitions are closed.

08.11.2024

NCC : Yes / No

Index : Yes / No

Rmk

NOTE : Issue order copy on 18.11.2024

To

1.The Special Court for POCSO Act Cases, Nagercoil.

2.The Inspector of Police,
All Women Police Station,
Kanniyakumari,
Kanniyakumari District.

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



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M.NIRMAL KUMAR, J.

Rmk

Order made in
Crl.O.P.(MD)No.16906 of 2024

Dated: 08.11.2024