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Crl.O.P.(MD) No.18238 of 2023

BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

DATED: 06.02.2024

CORAM

THE HON'BLE MR.JUSTICE SATHI KUMAR SUKUMARA KURUP

**CRL.O.P (MD) No.18238 of 2023
and
Crl.M.P.(MD)Nos.14408 and 14409 of 2023**

Muniyappan

...Petitioner

vs

**1.State represented by
The Inspector of Police,
All Women Police Station,
Nilakottai Police Station,
Dindigul District.
(in Cr.No.07 of 2021)**

2.Indira

3.xxxx

...Respondents

**PRAYER: Criminal Original Petition filed under Section 482 of Cr.P.C,
praying, to call for the records pertaining to the impugned charge sheet in
Spl.S.C.No.66 of 2023 on the file of the Fast Track Mahila Court, Dindigul
District and to quash the same as illegal.**

For Petitioner	: Mr.S.Vikram
For R1	: Mr.M.Veeranthiran
	Government Advocate (crl.side)
For R2	:Mr.P.Muthu Lakshmi



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ORDER

The learned Counsel for the Petitioner submitted that the Petitioner had been arrayed as Accused in Spl.S.C.No.66 of 2023 on the file of the Fast Track Mahila Court, Dindigul District.

2.The learned Counsel for the Petitioner submitted that at the time of registration of the case, the accused was aged about 21 years and the victim girl was aged about 17 years. Therefor, the case was registered under the provisions of POCSO Act. The accused now aged 23 years and the victim had attained the age of majority. As per the complaint of the mother of the victim, the victim was a student of +2. She is the second daughter of the complainant and the victim had eloped with the accused prior to attaining the age of majority. Therefore, the mother of the victim had lodged a complaint. Subsequently, the victim girl was secured and the accused arrested by the Respondent Police. After investigation, final report was laid before the learned Judicial Magistrate, Nilakottai, which was subsequently committed to the Court of Session and re-numbered as Spl.S.C.No.66 of 2023 under Section 363 IPC and Section 5(1) r/w Section 6 POCSO Act,



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3.The learned Counsel for the Petitioner submitted that after the victim girl attained the age of majority, the accused married the victim girl before the Sub Registrar, Aathoor and the said marriage was also registered.

4.It is the submission of the learned Counsel for the Petitioner as well as the learned Counsel for the second Respondent that subsequent to the marriage, the accused and the victim are living as husband and wife and they are blessed with a female child aged six months.

5.If the trial concludes and ended in judgment, the Accused/Petitioner has to be sentenced to imprisonment for a period of not less than 20 years under the provisions of POCSO Act. If the case ends in conviction, an appeal has to be taken up. It will also be delayed. By that time, the minor child will be denied the love, affection and care of the father. It is a very shocking circumstance.

6.If the provisions of POCSO Act are mechanically applied, for no



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fault of the minor child, who aged 6 months, she had to live a cruel life and face cruelty of the society. Therefore, this is a peculiar circumstance.

Therefore, exercising the inherent power of the High Court under Section 482 of Cr.P.C., top most priority is given to the minor child for the mental and physical health and future of the minor child, who is too young. Under those circumstances, the application of law had to be averted. It is an extraordinary circumstance. This cannot be applied as a general rule.

7.Considering the welfare of the minor child, who is too young and also considering the social and educational status of the parties, they have to be shown some lenience. Therefore, exercising the extraordinary power under Section 482 Cr.P.C., this Court is inclined to quash the case against the Petitioner herein, in Spl.S.C.No.66 of 2023 on the file of the Fast Track Mahila Court, Dindigul District, in the light of the judgments of this Court in (a) **2021 (1) MWN (Cr.) 252 (Vijayalakshmi and another and State and (b) 2022 (1) LW CrI. 303 (Agavai vs the State) (c) 2019 SCC OnLine Mad 18850 (Sabari @ Sabarinathan @ Sabarivasan vs the Inspector of Police and others)** and in the light of the precedent of the Hon'ble Gujarat High Court in **2021 Scc Online Guj 2961 (Ashwinibhai vs State of Gujarat).**



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In the result, the ***Criminal Original Petition*** is allowed. The case in Spl.S.C.No.66 of 2023 on the file of the Fast Track Mahila Court, Dindigul District, is quashed. Consequently, connected Miscellaneous Petitions are closed.

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

06.02.2024

cmr

To

1.The Fast Track Mahila Court, Dindigul,

The Inspector of Police,
All Women Police Station,
Nilakottai Police Station,
Dindigul District.



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SATHI KUMAR SUKUMARA KURUP, J.

cmr

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