



Crl.O.P.(MD)No.19061 of 2024

BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

DATED: 13.11.2024

CORAM

THE HON'BLE MR.JUSTICE M.NIRMAL KUMAR

Crl.O.P.(MD)No.19061 of 2024

R.Dhanish

... Petitioner

Vs.

1.The State of Tamil Nadu,
Rep., by the Inspector of Police,
All Women Police Station,
Colachel, Kanyakumari District.
Crime No.17 of 2023

2.XXXXXX

... Respondents

PRAYER : Criminal Original Petition filed under Section 528 of BNSS, 2023, to call for the records pertaining to the charge sheet in Spl SC.No. 64 of 2023 on the file of the Special Court for Exclusive Trial cases under POCSO Act, Kanyakumari District at Nagercoil.

For Petitioner : Mr.C.K.M.Appaji

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

For R2 : Mr.P.Suresh



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ORDER

This Criminal Original Petition has been filed to quash the proceedings in Spl.SC.No.64 of 2023 on the file of the Special Court for Exclusive Trial cases under POCSO Act, Kanyakumari District at Nagercoil.

2. The case of the prosecution is that the petitioner and the second respondent fell in love each other. On 16.09.2022, the second respondent went to the house of the petitioner, where the petitioner on the false promise of marrying the victim girl, had sexual intercourse with her. Due to which, the second respondent became pregnant. Hence, the case has been registered.

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



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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 respondent and their respective counsels. The petitioner and the second respondent present before this Court, identified by Ms.Subitha, WGrI 2579, AWPS, Colachel, 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 both the petitioner and the second respondent are neighbor known to each other and they fell in love. Now, they got married on 23.06.2023 and the same was registered on 01.08.2023. They are living happily as a family and child was born to them. 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:

“It is submitted that the subject matter was compromised and the petitioner and the second respondent solemnized their marriage on



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23.06.2023. they are living happily as a family. The continuation of the criminal proceedings would cause undue hardship and emotional distress to both parties.

It is submitted that second respondent has agreed to withdraw the charge sheet in SPL.SC.No.64 of 2023 on the file of the Special Court for Exclusive Trial Cases under POCSO Act, Kanyakumari District at Nagercoil.”.

6. The case has been registered for offences under Sections 5(j) (ii), 5(1) 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 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.



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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 5(j)(ii), 5(1) and 6 of POCSO Act, now, the petitioner and the second respondent/*victim* have amicably settled their dispute between themselves. The second 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 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.64 of 2023 on the file of the Special Court for Exclusive Trial Cases under POCSO Act, Kanyakumari District, is quashed and the terms of joint



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compromise memo and affidavit filed by the third respondent shall form part and parcel of this order.

NCC : Yes / No

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Index : Yes / No

Rmk

To

1.The Special Court for Exclusive Trial Cases under POCSO Act,
Kanyakumari District.

2.The Inspector of Police,
All Women Police Station,
Colachel, Kanyakumari District.

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



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M.NIRMAL KUMAR, J.

Rmk

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