



Crl.O.P.(MD)No.19916 of 2024

WEB COPY

BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

DATED: 22.11.2024

CORAM

THE HON'BLE MR.JUSTICE M.NIRMAL KUMAR

Crl.O.P.(MD)No.19916 of 2024

1. Easwaran
2. Jeyachitra
3. Kandhan
4. Ponnuthai

... Petitioners

Vs.

1. The Inspector of Police
Jayamangalam Police Station,
Theni District.

2. Jeyachitra

3. XXXXX,
XXXXX,
XXXXX,
XXXXX,
Theni District.

... Respondents

PRAYER : Criminal Original Petition filed under Section 528 of BNSS, to call for the records pertaining to the impugned charge sheet in Spl.S.C.No.98 of 2024 pending on the file of the learned Sessions Judge, Mahila Court, Theni.



Crl.O.P.(MD)No.19916 of 2024

For Petitioners : Mr.R.Shankar Ganesh
For R-1 : Mr.K.Sanjai Gandhi
Government Advocate (Crl. Side)
For R- 2 & R-3 : M/s.M.Beulah Rani

ORDER

This Criminal Original Petition has been filed to quash the proceedings in Spl.S.C.No.98 of 2024 on the file of the learned Sessions Judge, Mahila Court, Theni.

2. The case of the prosecution is that the first petitioner had married the victim girls, who was not attained her majority and the first petitioner also had sexual intercourse with her. Hence, the case has been registered.

3. The learned counsel appearing for the petitioners, learned Counsel appearing for the first respondent and the learned counsel appearing for the second and third respondent submitted that now, the



Crl.O.P.(MD)No.19916 of 2024

petitioners and the second respondent/defacto complainant have settled the dispute between themselves amicably and the second respondent/defacto complainant 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 was filed before this Court signed by the petitioners and the second respondent and their respective counsels. The petitioners and the second respondent/defacto complainant and the victim girl present before this Court, identified by Mr.P.Chellapandian, SSI, Jeyamangalam Police Station, Theni District, as well as by the learned Counsel 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/victim had stated that both the petitioner and the third respondent/victim got married. They are living happily in a separate house and she did not want to pursue with the case. She has also filed an affidavit. The relevant portion of the affidavit reads as follows:



Crl.O.P.(MD)No.19916 of 2024

WEB COPY

“3. I respectfully submit that now I realized that the petitioners have not committed any offence as stated above. Further the petitioners have not conducted my marriage and there was no harassment on the part of the first petitioner. The FIR and charge sheet were laid by the officials for statistical purpose and now I am living with the first petitioner happily and now the matter has been settled amicable, on intervention of both village and community elders. Since the matter has been settled amicable, I have no objection for quashing the impugned charge sheet against the petitioner in Spl.S.C.98 of 2024 on the file of the learned Sessions Judge, Mahila Court, Theni. Further I have no objection to return back all seized property or money deposited by the petitioners in the above said case if any.....”

6. The case has been registered for offences under Sections 9, 10 of Prohibition of Child Marriage Act, 2006 and 4(1) r/w. 17 and 18 of POCSO Act, 2012. 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



Crl.O.P.(MD)No.19916 of 2024

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



Crl.O.P.(MD)No.19916 of 2024

WEB COPY

8. 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.

9. In the case at hand, though the petitioners are charged with for the offences punishable under Sections 9, 10 of Prohibition of Child Marriage Act, 2006 and 4(1) r/w. 17 and 18 of POCSO Act, 2012, now, the defacto complainant has also confirmed that she is not inclined to prosecute this case further, since the third respondent/victim and the first petitioner got married and also filed a memo to that effect. The third respondent/victim has also filed an affidavit stating that she 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.

10. Accordingly, this Criminal Original Petition is allowed and the



Crl.O.P.(MD)No.19916 of 2024

criminal proceedings initiated against the petitioners in Spl.S.C.No.98 of 2024 on the file of the learned Sessions Judge, Mahila Court, Theni, is quashed and the terms of joint compromise memo and affidavit filed by the third respondent/victim shall form part and parcel of this order.

22.11.2024

NCC : Yes / No
Index : Yes / No
jbr

To

1. The Inspector of Police
Jayamangalam Police Station,
Theni District.
2. The Additional Public Prosecutor,
Madurai Bench of Madras High Court,
Madurai.



WEB COPY



Crl.O.P.(MD)No.19916 of 2024

M.NIRMAL KUMAR, J.

jbr

Crl.O.P.(MD)No.19916 of 2024

22.11.2024