



Crl.O.P.(MD)No.21490 of 2024

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BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

DATED: 20.12.2024

CORAM

THE HON'BLE MR.JUSTICE M.NIRMAL KUMAR

Crl.O.P.(MD)No.21490 of 2024
and Crl.M.P(MD) Nos.13322 & 13323 of 2024

Neethirajan Alias Balaji

... Petitioner

Vs

1. The State of Tamil Nadu,,
Rep. by the Sub Inspector of Police,
All Women Police Station,
Thallakulam, Madurai City,
(Crime No. 21 of 2024).

2. Xxx

... Respondents

PRAYER : Criminal Original Petition filed under Section 528 of BNSS, 2023, to call for the records connected with the case in Spl.S.C. No. 30 of 2024 pending on the file of the Principal Special Court for Exclusive Trial of Cases under POCSO Act, Madurai and quash the same as illegal as against the petitioner.

For Petitioner : Dr.R.Alagumani,

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

M/s.P.Ravindar (R2)



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ORDER

This Criminal Original Petition has been filed, invoking Section 528 of Bharatiya Nagarik Suraksha Sanhita, 2023, to quash the charge sheet in Spl.S.C. No. 30 of 2024 on the file of the Principal Special Court for Exclusive Trial of Cases under POCSO Act, Madurai.

2. The case of the prosecution is that the petitioner had physical relationship with the defacto complainant. Hence, the complaint.

3. The learned counsel appearing for the petitioner would submit that the second respondent lodged a complaint before the first respondent and an FIR has been registered in Crime No.21 of 2024. After investigation, a final report has been filed and the same was taken cognizance in Spl.S.C. No. 30 of 2024 on the file of the Principal Special Court for Exclusive Trial of Cases under POCSO Act, Madurai, for the offences under Sections 5(l), 5(n), 5(j)(ii) r/w 6 of POCSO Act, against the petitioner.



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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.

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 the WSSI, AWPS Tallakulam, Madurai 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 second respondent had stated that both the petitioner and the second respondent got married and they are living happily and she had intended to withdraw the complaint against the petitioner.



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6. The case has been registered for offences under Sections 5(l), 5(n), 5(j)(ii) r/w 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.

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



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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 5(l), 5(n), 5(j)(ii) r/w 6 of POCSO Act, now, the petitioner and the second respondent/victim have



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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. 30 of 2024 on the file of the Principal Special Court for Exclusive Trial of Cases under POCSO Act, Madurai, 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.

20.12.2024

NCC : Yes / No
Index : Yes / No
PNM



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POCSO Act, Madurai

2. The Sub Inspector of Police,
All Women Police Station,
Thallakulam, Madurai City,
(Crime No. 21 of 2024).

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



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M.NIRMAL KUMAR, J.

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