



Crl.O.P.(MD)No.20325 of 2024

BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

DATED: 22.11.2024

CORAM

THE HON'BLE MR.JUSTICE M.NIRMAL KUMAR

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1. Manikandan
2. Muthuraj
3. Nataraj @ Nadaraj
4. Parvathi

... Petitioners

Vs.

1. The Inspector of Police
Dindigul Taluk Police Station,
Dindigul District.

2. XXXX

... Respondents

PRAYER : Criminal Original Petition filed under Section 528 of BNSS, to call for the records pertaining to the charge sheet in Spl.S.C.No.113 of 2023 on the file of the Fast Track Mahila Court (Special Court for Exclusive Trial of Cases under POCSO Act), Dindigul and quash the same as illegal.



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For Petitioners : Mr.D.Venkatesh
For R1 : Mr.K.Sanjai Gandhi
For R2 : Mr.T.Lenin Kumar

ORDER

This Criminal Original Petition has been filed to quash the proceedings in Spl.S.C.No.113 of 2023 on the file of the Fast Track Mahila Court (Special Court for Exclusive trial of cases under POCSO Act, Dindigul).

2. The case of the prosecution is that the first petitioner had married the victim girl, when she was minor and the first petitioner also had sexual intercourse with her. Hence, the case has been registered as against the petitioners.

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



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the 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. Further it is submitted that the marriage has been registered on 13.09.2024 and the same was produced before this Court.

4. Today, when the matter was taken up for hearing a joint Memo of Compromise 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.V.Ariyavel, Spl.SI of Police, Dindigul Taluk Police Station, Dindigul 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 second respondent/victim had stated that both the first petitioner and the second respondent/victim got married on 31.08.2020 and a male child was born to them. They are living happily in a separate



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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:

“4. I submit that I and the 1st petitioner got married in the presence and with the blessings of our parents and well-wishers. We started to live as husband and wife. Since at the time of pregnancy, I was minor, by getting a complaint from me, the 1st respondent registered a case against the petitioners. Who are none other than my husband, my father and my parents-in-law. Out of wedlock, I delivered a male child on 21.09.2021. In view of I attained majority, our marriage was registered before the Sub-Registrar, Vadamadurai on 30.09.2024. Therefore, I agreed to quash the criminal proceeding against the petitioners. In support of the above said quash petition, I am filing this affidavit. A joint compromise memo also filed along with this quash petition.....”

6. The case has been registered for offences under Sections 9 & 11(i) of Prohibition of Child Marriage Act, 2006 r/w. 5(1), 5(n) & 5(j)(ii) 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



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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 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”.



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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, 11(i) of Prohibition of Child Marriage Act, 2006 r/w. 5(1), 5(n) & 5(j)(ii) and 6 of POCSO Act, now, the defacto complainant has also confirmed that she is not inclined to prosecute this case further, since the second respondent/victim and the first petitioner got married and also filed a memo to that effect. The second 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



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criminal proceedings initiated against the petitioners in Spl.S.C.No.113 of 2023 on the file of the Fast Track Mahila Court (Special Court for Exculsive Trial of Cases under POCSO Act), Dindigul, is quashed and the terms of joint compromise memo and affidavit filed by the second respondent/victim shall form part and parcel of this order.

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NCC : Yes / No

Index : Yes / No

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To

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



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M.NIRMAL KUMAR, J.

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