



Crl.O.P.(MD)No.21653 of 2024

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.21653 of 2024

and Crl.M.P(MD) Nos.13410 & 13411 of 2024

1. Saravanan

2. Madasamy

3. Surulimani

4. Marimuthu

5. Parvathi

... Petitioners

Vs

1. The State Rep.by
The Inspector of Police,
Rayappanpatti Police Station,
Theni District.
Crime No.198/2022.

2. Xxxx,
Xxxx
Xxxx
Xxxx..

... Respondents

PRAYER : Criminal Original Petition filed under Section 528 of BNSS, 2023, to call for the records pertaining to the impugned Charge sheet in Spl SC No.306 of 2023, on the file of the learned Sessions Judge, Special



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Court for Exclusive Trial of Cases under POCSO Act, Theni in respect of Crime No.198/2022, on the file of the 1st respondent Police and quash the same.

For Petitioner : M/s. Thilagavathi. S,

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

M/s. S.Meena (R2)

ORDER

This Criminal Original Petition has been filed, invoking Section 528 of Bharatiya Nagarik Suraksha Sanhita, 2023, to quash the charge sheet in Spl SC No.306 of 2023 on the file of the Special Court for Exclusive Trial of Cases under POCSO Act, Theni.

2. The case of the prosecution is that the parents of the first petitioner and the victim jointly conducted the marriage of the first petitioner and the victim/2nd respondent. Hence, the complaint.

3. The learned counsel appearing for the petitioners would submit that the second respondent lodged a complaint before the first respondent and an FIR has been registered in Crime No.198 of 2022.



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After investigation, a final report has been filed and the same was taken cognizance in Spl SC No.306 of 2023 on the file of the Special Court for Exclusive Trial of Cases under POCSO Act, Theni, for the offences under Sections 4(2), 5(1), 6 and 17 of POCSO Act and Sections 9 and 10 of Child Marriage Restraint Act and Section 376(3) of IPC, against the petitioners.

4.Today when the matter was taken up for hearing, both the first petitioner, the victim and their parents appeared before this Court. It is seen that the first petitioner and the victim are all close relatives coming from a marginalized society. They are engaged in manual work in the State of Kerala. They all moved together as a group and lived together and make their daily earnings. It is common among their community to marry their close relatives at their young age and their marriage is also accepted among the family members. As per the family customs only, both the first petitioner and the victim got married and they are living as a family. Further, the victim has been taken care by the first petitioner and his family members. Both the family members of the first petitioner and the victim confirmed that it is their family customs to



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get marry at their young age and such marriage is accepted in their family.

5. A Joint Memo of Compromise dated 20.12.2024 is filed before this Court signed by the petitioners and the second respondent and their respective counsels. The petitioners and the second respondent are present before this Court, identified by Mr.B.Kumaran, SSI, Rayappanpatti Police Station, Theni District, as well as by the learned counsels appearing for the parties. This Court enquired both the parties and satisfied that the parties have come to an amicable settlement between themselves on their own voluntarily without any compulsion.

6.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



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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”.

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



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(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 petitioners are charged with for the offences punishable under Sections 4(2), 5(1), 6 and 17 of POCSO Act and Sections 9 and 10 of Child Marriage Restraint Act and Section 376(3) of IPC, now, the first petitioner and the second respondent/victim have amicably settled their dispute between themselves. 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



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and the proceedings in Spl SC No.306 of 2023, on the file of the Special Court for Exclusive Trial of Cases under POCSO Act, Theni, is quashed as against the petitioners and the joint compromise memo shall form part and parcel of this order. Consequently, connected miscellaneous petitions are closed.

20.12.2024

NCC : Yes / No
Index : Yes / No
PNM

To

1.The Sessions Judge,
Special Court for Exclusive Trial of Cases under POCSO Act, Theni

2. The Inspector of Police,
Rayappanpatti Police Station,
Theni District.
Crime No.198/2022.

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



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M.NIRMAL KUMAR, J.

PNM

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