



Crl.O.P.(MD)No.22129 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.22129 of 2024
and Crl.M.P(MD) Nos.13720 & 13721 of 2024

Riyaskhan

... Petitioner

Vs

1. The State of Tamilnadu,
Rep. by the Inspector of Police,
Surandai Police Station,
Tenkasi District.
(Crime No. 318/2021).

2. Santhi

... Respondents

PRAYER : Criminal Original Petition filed under Section 528 of BNSS, 2023, to call for the records relating to the Criminal Case in Spl.C.C.No. 116/2024 on the file of the Principal District Court, Tenkasi quash the same by allowing this criminal original petition.

For Petitioner : R.Thamarai Selvan

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

Mr. R.Rajeshkumar (R2)



Crl.O.P.(MD)No.22129 of 2024

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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.C.C.No. 116 of 2024 on the file of the Principal District Court, Tenkasi .

2. The case of the prosecution is that the defacto complainant is the mother of the victim, who is a minor. From 01.08.2021 the victim was found missing. Hence, the complaint. Based on the investigation it is revealed that the petitioner had physical intercourse with the victim.

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.318 of 2021. After investigation, a final report has been filed and the same was taken cognizance in Spl.C.C.No. 116 of 2024 on the file of the Principal District Court, Tenkasi, for the offences under Section 366(A) IPC and Sections 3(a), 4 of POCSO Act, against the petitioner.



Crl.O.P.(MD)No.22129 of 2024

WEB COPY

4.Today, both the petitioner and the victim appeared before this Court. At the time of occurrence, the victim was 17 years and 3 months old. With an intention to marry the victim, the petitioner had physical relationship with her. Later, the parents of the victim refused to marry the petitioner. Now, the victim has attained her majority. Both the victim and the petitioner got married separately and they are living happily.

5. The case is under trial. By passage of time, the parties have decided to bury their hatchet and compromised the dispute amicably among themselves and second respondent is agreeing to withdraw the complaint and is not willing to pursue the case.

6. A Joint Memo of Compromise dated 19.12.2024 is filed before this Court signed by the petitioner and the second respondent and their respective counsels. The petitioner, victim and the second respondent are present before this Court, identified by Mr.Kumaresan, Special Sub Inspector of Police, Surandai Police Station, Tenkasi District, as well as by the learned counsels appearing for the parties. This



Crl.O.P.(MD)No.22129 of 2024

WEB COPY

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.

7. The second respondent had stated that both the petitioner and the victim got married separately and they are living happily and she had intended to withdraw the complaint against the petitioner.

8. The case has been registered for offence under Section 366(A) IPC and Sections 3(a), 4 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.



Crl.O.P.(MD)No.22129 of 2024

WEB COPY

9. 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”.

10. 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.



Crl.O.P.(MD)No.22129 of 2024

WEB COPY

11. 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.

12. In the case at hand, though the petitioner is charged with for the offences punishable under Section 366(A) IPC and Sections 3(a), 4 of POCSO Act, now, the petitioner and the second respondent have amicably settled their dispute between themselves. The second respondent has also filed an affidavit stating that the victim and the petitioner had married separately. 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.

13. Accordingly, this Criminal Original Petition is allowed



Crl.O.P.(MD)No.22129 of 2024

WEB COPY

and the criminal proceedings initiated against the petitioner in Spl.C.C.No. 116 of 2024 on the file of the Principal District Court, Tenkasi, 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

To

1.The Principal District Judge, Tenkasi

2.The Inspector of Police,
Surandai Police Station,
Tenkasi District.
(Crime No. 318/2021)

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



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Crl.O.P.(MD)No.22129 of 2024

M.NIRMAL KUMAR, J.

PNM

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