



Crl.O.P.(MD)No.21674 of 2024

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BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

DATED: 19.12.2024

CORAM

THE HON'BLE MR.JUSTICE M.NIRMAL KUMAR

Crl.O.P.(MD)No.21674 of 2024
and Crl.M.P(MD) Nos.13422 & 13424 of 2024

N.Natchan

... Petitioner

Vs

1. State through the,
Sub Inspector of Police,
Shanarpatti Police Station,
Dindigul District.
Crime No. 273/2023..

2. Shiyamala

... Respondents

PRAYER : Criminal Original Petition filed under Section 528 of BNSS, 2023, to call for the entire records pertaining to the charge-sheet filed in Spl.S.C.No.396/2023 on the file of Special Court of Exclusive Trial of Cases under POCSO Act, Dindigul and quash the same as illegal.

For Petitioner : M/s.Ajmal Khan.S.A,

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

Mr.G.Sailendra Babu (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.396 of 2023 on the file of the Special Court of Exclusive Trial of Cases under POCSO Act, Dindigul .

2. The case of the prosecution is that the petitioner had married the victim, who is a minor and physical relationship with her, thereby, she got pregnant. Hence, the complaint has been lodged by the defacto complainant, who is a District Child Welfare Officer.

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.273 of 2023. After investigation, a final report has been filed and the same was taken cognizance in Spl.S.C.No.396 of 2023 on the file of the Special Court of Exclusive Trial of Cases under POCSO Act, Dindigul, for the offences under Sections Section 9 of Prohibition of Child Marriage Act, 2012 and Sections 5(l), 5(n), 5(j)(ii) and 6 of POCSO Act, against the petitioner.



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4.Today when the matter was taken up for hearing, both the petitioner, the victim and their child appeared before this Court. It is seen that the petitioner and the victim are all close relatives coming from a marginalized society. They have studied upto 8th standard and they have no proper education and guidance to carry their lives. 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 petitioner and the victim got married and they are living as a family. Now, they have a child. Further, the victim has been taken care by the petitioner and his family members. Both the family members of the petitioner and the victim confirmed that it is their family customs to get marry at their young age and such marriage is accepted in their family. Now the victim has attained majority.

5.The learned counsel appearing for the petitioner as well as the learned counsel appearing for the victim submitted that now, the victim has attained majority and the victim is not willing to proceed



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further with the criminal case.

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6. Both the petitioner and the mother of the victim filed undertaking affidavits and the same were signed by the petitioner and the victim's mother and their respective counsels. The petitioner and the victim present before this Court, identified by the Mr.A.Boopathi, SSI, Shanarpatti Police Station, Dindigul 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.

7. The victim's mother had stated that both the petitioner and the victim got married and they are living happily and she had intended to withdraw the complaint against the petitioner.

8. The case has been registered for offences under Sections Section 9 of Prohibition of Child Marriage Act, 2012 and Sections 5(l), 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



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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.

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



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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.

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 Sections Section 9 of Prohibition of Child Marriage Act, 2012 and Sections 5(l), 5(n), 5(j)(ii) and 6 of POCSO Act, now, the petitioner and the victim have amicably settled their dispute between themselves. The victim's mother has also filed an



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affidavit stating that the victim has married the petitioner. In view of the compromise made 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 and the criminal proceedings initiated against the petitioner in Spl.S.C.No.396 of 2023 on the file of the Special Court of Exclusive Trial of Cases under POCSO Act, Dindigul, is quashed and the terms of affidavit filed by the victim's mother and the petitioner shall form part and parcel of this order. Consequently, connected miscellaneous petitions are closed.

19.12.2024

NCC : Yes / No
Index : Yes / No
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To

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

2.The Sub Inspector of Police,
Shanarpatti Police Station,
Dindigul District.
Crime No. 273/2023.

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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