



Crl.O.P.(MD) No.21973 of 2023

BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

DATED: 19.03.2024

CORAM

THE HON'BLE MR.JUSTICE SATHI KUMAR SUKUMARA KURUP

CRL.O.P (MD) No.21973 of 2023

and

Crl.M.P.(MD)Nos.17183 of 2023

Kumar

...Petitioner

vs

**1.The Inspector of Police,
Town South Police Station,
Dindigul.**

**2.Gracy Mary
3.XXXX**

...Respondents

PRAYER: Criminal Original Petition filed under Section 482 of Cr.P.C, praying, to call for the records pertaining to the charge sheet in Spl.S.C.No. 224 of 2023 on the file of the learned Fast Track Mahila Court, Dindigul and to quash the same.

For Petitioner	: Mr.K.Navaneetharaja
For R1	: Mr.M.Veeranthiran
	Government Advocate (crl.side)
For R2	:Mr.A.Subbiah



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ORDER

The learned Counsel for the Petitioner submitted that the Petitioner had been arraigned as Accused in Spl.S.C.No.224 of 2023 on the file of the Fast Track Mahila Court, Dindigul District.

2.This Petition had been filed by the Accused in Spl.S.C.No.224 of 2023. As per the prosecution case, the victim was pregnant, when she attended the Government Hospital at Dindigul. At that time, the Doctor found that the victim had not attained the marriageable age. Therefore, a complaint was lodged. Based on the same, the case was registered in Cr.No. 21 of 2021 on the file of Town South Police Station, Dindigul District, for offences punishable under Section 363 of IPC, Section 9 of Prohibition of Child Marriage Act, 2006 and Sections 5(I), 5(j)(ii) and 6 of POCSO Act. Now, the case is pending before the Fast Track Mahila Court, Dindigul District.

3.The learned Counsel for the Petitioner submitted that after the



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victim girl attained the age of majority, the accused married the victim girl before the II Joint Sub Registrar, Dindigul and the said marriage was also registered.

4.It is the submission of the learned Counsel for the Petitioner as well as the learned Counsel for the second Respondent that subsequent to the marriage, the accused and the victim are living as husband and wife and they are blessed with a female child aged two years.

5.If the trial concludes and ended in judgment, the Accused/Petitioner has to be sentenced to imprisonment for a period of not less than 20 years under the provisions of POCSO Act. If the case ends in conviction, an appeal has to be taken up. It will also be delayed. By that time, the minor child will be denied the love, affection and care of the father. It is a very painful experience.

6.If the provisions of POCSO Act are mechanically applied, for no fault of the minor child, who is aged two years, had to live a cruel life and face cruelty of the society. This is a peculiar circumstance. Therefore,



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exercising the inherent power of the High Court under Section 482 of Cr.P.C., top most priority is given to the minor child for the mental and physical health and future of the minor child, who is too young. Under those circumstances exemption to the Rule had to be invoked, the application of law had to be avoided. It is an extraordinary circumstance. This cannot be applied as a general rule.

7.Considering the welfare of the minor child, who is too young and also considering the social and educational status of the parties, they have to be shown some leniency. Therefore, exercising the extraordinary power under Section 482 Cr.P.C., this Court is inclined to quash the case against the Petitioner herein, in Spl.S.C.No.224 of 2023 on the file of the Fast Track Mahila Court, Dindigul District, in the light of the judgments of this Court in (a) ***2021 (1) MWN (Cr.) 252 (Vijayalakshmi and another and State and*** (b) ***2022 (1) LW Crl. 303 (Agavai vs the State)*** (c) ***2019 SCC OnLine Mad 18850 (Sabari @ Sabarinathan @ Sabarivasan vs the Inspector of Police and others)*** and in the light of the precedent of the Hon'ble Gujarat High Court in ***2021 Scc Online Guj 2961 (Ashwinibhai vs State of Gujarat)***.



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In the result, the ***Criminal Original Petition*** is allowed. The case in Spl.S.C.No.224 of 2023 on the file of the Fast Track Mahila Court, Dindigul District, is quashed. Consequently, connected Miscellaneous Petitions is closed.

Internet :Yes/No
Index :Yes/No
NCC :Yes/No

19.03.2024

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To

- 1.The Fast Track Mahila Court, Dindigul.
- 2.The Inspector of Police,
Town South Police Station,
Dindigul.



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SATHI KUMAR SUKUMARA KURUP, J.

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