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Crl.O.P.No.2024 of 2025

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 28.01.2025

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THE HONOURABLE MR.JUSTICE P.VELMURUGAN

Crl.O.P.No. 2024 of 2025

and

Crl.M.P.No.1218 of 2025

1. Subash
2. Vasanthi

... Petitioners

Vs.

1. The State rep.by its
Inspector of Police,
All Women Police Station,
W.15, Royapuram, Chennai,
Crime No.9 of 2021.

2. Radha

... Respondents

Prayer: Criminal Original Petition is filed under Section 528 of BNSS, 2023, to call for the records in Spl.S.C.No.182 of 2022 pending on the file of the Mahila Court, Allikulam and quash the same.

For Petitioners : Mr.Neshapriyan

For Respondents : Mr.S.Sugendran
Additional Public Prosecutor for R1

ORDER



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This Criminal Original Petition is filed to quash the proceedings in Spl.S.C.No.182 of 2022 pending on the file of the Mahila Court, Allikulam.

2. The case of the prosecution is that the first petitioner-accused had a love affair with victim girl, who is aged about 16 years and had physical relationship with her, due to which, she got pregnant. The respondent-Police based on the complaint given by second respondent-*defacto* complainant, registered a case in Crime No.9 of 2021 for the offence under Section 6 r/w 5(j)(ii) of POCSO Act, 2012 and under Sections 9 and 10 of Child Marriage Act, 2006 and under Section 6 read with 17 and 21(1) of POCSO Act. On completion of the investigation, the respondent-police filed a charge sheet before the Special Court of POCSO Cases, Chennai and the same was taken on file in Spl.S.C.No.92 of 2021, later it was transferred and renumbered as Spl.S.C.No.182 of 2022 on the file of the Mahila Court, Allikulam, Chennai.

3. Learned counsel for the petitioners submitted that there was a love affair between the first petitioner and the victim, due to which, both had physical relationship and that she became pregnant. The *de-facto* complainant by knowing the love affair and her pregnancy, send the



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victim girl to her sister's house and lodged the complaint but the victim girl on her own volition went to the accused house without informing the *de-facto* complainant. He further submitted that admittedly the relationship between the first petitioner and the victim was known to both of their parents and they have also got consent from their parents for marrying each other after the victim attains the age of majority. When the victim became pregnant, the second petitioner, who is the mother of the first petitioner decided to conduct their marriage after attaining majority of the victim. He further submitted that all the above facts were confirmed by the victim during her confession statement which was recorded under Section 164 Cr.P.C. He further submitted that now the petitioner and the victim are living happily with their new born child under the same roof. The petitioners are innocent and they did not commit any offence as alleged by the prosecution. He further submitted that the second respondent-*de-facto* complainant and the petitioners are now ready to settle the issue amiably and the *de-facto* complainant does not want to prosecute the case. Therefore, the proceedings against the petitioners in Spl.S.C.No.182 of 2022 may be quashed.

4. Learned Additional Public Prosecutor appearing for the first respondent-Police submitted that at the time of occurrence, the victim is



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aged only about 16 years. FIR was registered against the petitioner-accused not only for POCSO Act but also registered for an offence under the Prohibition of Child Marriage Act, 2006.

5. Heard the learned counsel for the petitioners and the learned Additional Public Prosecutor for the first respondent and perused the materials available on record.

6. On a perusal of charge-sheet and statement recorded from the witnesses, especially from the *de-facto* complainant under Section 164 Cr.P.C., this Court finds that *prima facie* case is made out and sufficient materials are available to proceed with the case further against the petitioner-accused and since the offence against the society are serious in nature this is not a fit case to quash the proceedings in Spl.S.C.No.182 of 2022 by invoking Section 528 BNSS Act, 2023. Hence, this Criminal Original Petition is dismissed. Consequently, connected miscellaneous petition is closed.

7. As per Section 35(2) of POCSO Act, the trial Court shall complete the trial, as far as possible, within a period of one year from the date of taking cognizance of the offence.



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8. In most of the cases either due to non-co-operation of the

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Investigating Officer or defence counsel or the lethargic attitude of the trial Court one way or other the statutory provisions of Section 35(2) POCSO Act has not been complied with. In the case on hand, the trial Court i.e., the Special Court for Exclusive Trial of Cases Under POCSO Act, Chennai had taken cognizance of the case in the year 2021 *vide* Spl.S.C.No.92 of 2021, later, the same was transferred and renumbered as Spl.S.C.No.182 of 2022 on the file of the Mahila Court, Allikulam. The trial Court is directed to act in accordance with Section 35(2) of POCSO Act, failing which, the Registrar General, High Court, Madras, is hereby directed to take action against the Presiding Officer, who has presided over the proceedings in Spl.S.C.No.182 of 2022 on the file of the Mahila Court, Allikulam.

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Index : Yes/No

Neutral Citation Case : Yes/No

Speaking Order : Yes/No

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To

1. The Presiding Officer,
Mahila Court, Allikulam, Chennai.
2. The Inspector of Police,
All Women Police Station,
W.15, Royapuram, Chennai.
3. The Public Prosecutor,
High Court, Madras.

Copy to:

The Registrar General,
High Court, Madras.



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P.VELMURUGAN, J

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