



WEB COPY



CrI.O.P.No.14187 of 2025

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 03.06.2025

CORAM

THE HONOURABLE MR.JUSTICE P.VELMURUGAN

CrI.O.P.No.14187 of 2025

and

CrI.M.P.No.9650 of 2025

1. Karmegam
2. Subramaniyan
3. Vijayakumari
4. Shankar
5. Thamaraiselvi

... Petitioners

Vs.

1. State Represented by
The Inspector of Police,
All Women Police Station,
Chidambaram,
Cuddalore District.
2. XXXXX,
Rural Welfare Officer,
Kumarachi Union,
Cuddalore District.
3. XXXXX (F/ 19 years),
W/o.Karmegam,
D/o.Shankar

... Respondents

Prayer: Criminal Original Petition is filed under Section 528 of BNSS, 2023, to call for the records and quash the proceedings in Spl.S.C.No.61



Crl.O.P.No.14187 of 2025

of 2023, which is pending before the learned Sessions Judge, Special Court for Exclusive Trial of Cases under POCSO Act, at Cuddalore, on the ground of express consent given by the third respondent/victim.

For Petitioners : Mr.V.Ramanareddy

For Respondents : Dr.C.E.Pratap
Government Advocate (Crl.Side)
for R1

ORDER

This Criminal Original Petition is filed to quash the proceedings in Spl.S.C.No.61 of 2023 on the file of the Sessions Judge, Special Court for Exclusive Trial of Cases under POCSO Act, at Cuddalore, on the ground of express consent given by the third respondent/victim.

2.The case of the prosecution is that the *de-facto* complainant/ second respondent herein, who is working as a Rural Welfare Officer, had received an information from Child Help Line, and on enquiry, they found that the first petitioner/A1 married the victim / third respondent herein, (who was a minor aged about 17 years) at VNS Kuttimani Marriage Hall, in the presence of elders of both the family members. Hence, based on the complaint lodged by the *de-facto* complainant, the



CrI.O.P.No.14187 of 2025

first respondent-Police registered a case in Crime No.11 of 2022 for the offences punishable under Section 343 IPC and Sections 5(l), 5(n), 6 and 17 of the Protection of Children from Sexual Offences Act, 2012 [hereinafter referred to as 'POCSO Act, 2012'] and Sections 9 and 10 of the Prohibition of Child Marriage Act, 2006, [hereinafter referred to as 'PCM Act, 2006'] against the petitioners. On completion of investigation, the first respondent-Police filed a charge-sheet before the Sessions Judge, Special Courts for Exclusive Trial of Cases under POCSO Act, Cuddalore and the same was taken on file in Spl.S.C.No.61 of 2023.

3. Learned counsel for the petitioners submitted that the first petitioner/A1 is the husband, second and third petitioners/A2 and A3 are the father and mother of A1 and fourth and fifth petitioners/A4 and A5 are the father and mother of the victim. The main allegations against the petitioners is that the petitioners 2 to 5 have performed marriage between the first petitioner and the victim, who is aged about 17 years. However, ever since the date of marriage, the victim is residing along with A1 to A3 without any dispute and her full consent living as a wife of the first



Crl.O.P.No.14187 of 2025

petitioner. Now, the victim has attained her majority. Since the first petitioner and the victim are living under one roof as husband and wife without any enmity either in the past or in the present and she has also filed consent affidavit which affirms that the marriage was solemnized at her free consent and also confirm to indemnify that she does not want to prosecute the case. Therefore, the proceedings against the petitioner in Spl.S.C.No.61 of 2023 may be quashed.

4. Heard the learned counsel for the petitioners and the learned Government Advocate (Crl.Side) appearing for the first respondent and perused the materials available on record.

5. Admittedly, at the time of marriage between the first petitioner and the third respondent/victim, the age of the victim was below 18 years. Both the parents of the victim and the first petitioner have performed marriage of the victim with the first petitioner. Once it is found that at the time of marriage, the victim is under 18 years, the Prohibition of Child Marriage Act, 2006 and POCSO Act would get attracted. If the victim subsequently attained majority and give her consent that she is living happily with her husband (first petitioner) and



CrI.O.P.No.14187 of 2025

she has no intention to prosecute the case, it cannot be accepted. In the case on hand, the offence committed by the petitioners are not private one and it is the offence against the society and also in violation of statutory provisions.

6. Considering the offence, which is grave in nature and object of Prohibition of Child Marriage Act and POCSO Act this Court cannot invoke Section 482 Cr.P.C./ 528 BNSS, 2023, ignoring the intention of the Legislature and the purpose of enactment of the Act.

7. Under these circumstances, this Court is not inclined to entertain the petition filed under Section 482 Cr.P.C. or Section 528 of BNSS and quash the proceedings in Spl.S.C.No.61 of 2023 pending on the file of the learned Sessions Judge, Special Courts for Exclusive Trial of Cases under POCSO Act, Cuddalore. Hence, this Criminal Original Petition is dismissed. Consequently, connected miscellaneous petition is closed.

03.06.2025

Index : Yes/No

Neutral Citation Case : Yes/No

Speaking Order : Yes/No

ms



CrI.O.P.No.14187 of 2025

WEB COPY

To

1. The Sessions Judge,
Special Court for Exclusive Trial of Cases
under POCSO Act, at Cuddalore.
2. The Inspector of Police,
All Women Police Station,
Chidambaram,
Cuddalore District.
3. XXXXX,
Rural Welfare Officer,
Kumarachi Union,
Cuddalore District.
4. The Public Prosecutor,
High Court, Madras.



WEB COPY



CrI.O.P.No.14187 of 2025

P.VELMURUGAN, J

ms

CrI.O.P.No.14187 of 2025

03.06.2025