



CrI.O.P.No.25680 of 2025

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 24.09.2025

CORAM :

THE HONOURABLE MR. JUSTICE N. SATHISH KUMAR

CrI.O.P.No.25680 of 2025

Sivakumar

... Petitioners

Vs.

1.State represented by
The Inspector of Police,
All Women Police Station,
Denkanikottai,
Krishnagiri District.

2.(Redacted)

... Respondents

Prayer : Criminal Original Petition filed under Section 528 of Bharatiya Nagarik Suraksha Sanhita to call for the records pertaining to the charge sheet in Spl.S.C.No.37 of 2023 on the file of the learned Sessions Judge, Fast Track Mahila Court, Krishnagiri, and quash the same on the ground of compromise.

For Petitioner	:	Mr.M.P.Saravanan
For R1	:	Mr.K.M.D.Muhilan, Additional Public Prosecutor
R2	:	Appeared in person



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ORDER

This Criminal Original Petition has been filed to quash the charge sheet in Spl.S.C.No.37 of 2023 on the file of the learned Sessions Judge, Fast Track Mahila Court, Krishnagiri, as against the petitioner for the offences under Sections 5(l), 5(j)(ii), 6 of POCSO Act and Section 506(1) IPC, based on the compromise arrived at by the petitioner and the 2nd respondent/*de facto* complainant.

2.It is the case of the prosecution that the *de facto* complainant (victim girl) and the petitioner (accused) had acquaintance with each other which later developed into love affairs between them. This came to the knowledge of the parents of the *de facto* complainant and despite warnings, they had continued their love affairs and the accused had enticed the victim girl under the pretext of loving her with intent to exploit her sexually. At that juncture, on 09.01.2022, when the victim girl, who was 17 years old at that time, was washing her clothes in front of her house, the accused saw her, and by utilising the loneliness of the victim girl, seduced her with intent to commit sexual assault on the victim girl and took her to the accused's house and had committed aggravated penetrative sexual assault on the



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victim girl and thereafter, criminally intimidated her not to reveal about that to anyone. As a result of the same, the victim girl became pregnant. Therefore, the *de facto* complainant lodged a complaint before the 1st respondent Police, based on which, an FIR came to be registered as against the petitioner in Crime No.15 of 2022 for the offences under Sections 5(1), 5(j)(ii), 6 of POCSO Act and Section 506(1) IPC. After investigation, charge sheet has been filed and the same has been taken cognizance in Spl.S.C.No.37 of 2023 on the file of the learned Sessions Judge, Fast Track Mahila Court, Krishnagiri, for the aforesaid offences as against the petitioner. Now, the same is sought to be quashed based on the compromise arrived at between the petitioner and the *de facto* complainant/2nd respondent.

3.Learned counsel for the petitioner would submit that the petitioner and the *de facto* complainant have now got married and they have a child and they have settled the matter among themselves and they do not want to proceed further and hence, seeks to quash the charge sheet as against the petitioner. A Joint Memo of Compromise has been executed between the petitioner and the 2nd respondent to that effect.



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4.The petitioner/accused is present before this Court. The *de facto* complainant/2nd respondent is also present before this Court today along with a male child. They are identified by their respective counsel as well as by Mrs.S.Panchali, Sub-Inspector of Police, Thenkanikottai Police Station, Krishnagiri District, who is also present before this Court.

5.On being enquired by this Court, the *de facto* complainant stated that she has got married to the petitioner/accused and they have a male child born out of their wedlock and they are now residing together in the matrimonial home and their parents have accepted them. The male child is also produced before this Court. The *de facto* complainant has stated that they had a love affair and she is not willing to undergo the agony any further and therefore, seeks to quash the proceedings in the interest of their peaceful future life. Both the *de facto* complainant and the petitioner/accused have filed a joint memo of compromise to that effect.

6.The learned Additional Public Prosecutor appearing on behalf of the



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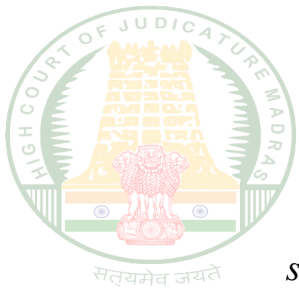
1st respondent Police would submit that, though the parties have entered into a compromise while this case is pending, this Court, taking into account the seriousness of the offence, has to consider the issue as to whether an offence of this nature can be quashed on the ground of compromise between parties.

7. In this regard, it is relevant to refer the judgment of the learned Single Judge of this Court, in ***Sabari v. Inspector of Police*** reported in **2019 (3) MLJ Crl 110**, wherein, the learned single Judge had discussed in detail about the cases in which persons of the age group of 16 to 18 years are involved in love affairs and how in some cases ultimately end up in a criminal case booked for an offence under the POSCO Act. The relevant portions of the judgment are extracted hereunder for proper appreciation:-

“21. When this case was taken up for hearing, this Court became concerned about the growing incidence of offences under the POCSO Act on one side and also the Rigorous Imprisonment envisaged in the Act. Sometimes it happens that such offences are slapped against teenagers, who fall victim of the application of the POCSO Act at a young age without understanding the implication of the severity of the enactment.

...

26. In addition to the above, this Court is of the view that 'warning' of attraction of POCSO Act must be displayed before

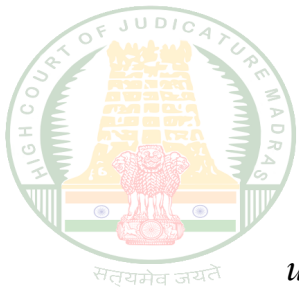


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screening of any film, which have teenage characters suggesting relationship between boy and girl.

27. Apart from the above, this Court is of the view that as per the 3rd respondent's report, majority of cases are due to relationship between adolescent boys and girls. Though under Section 2(d) of the Act, 'Child' is defined as a person below the age of 18 years and in case of any love affair between a girl and a boy, where the girl happened to be 16 or 17 years old, either in the school final or entering the college, the relationship invariably assumes the penal character by subjecting the boy to the rigorous of POCSO Act. Once the age of the girl is established in such relationship as below 18 years, the boy involved in the relationship is sure to be sentenced 7 years or 10 years as minimum imprisonment, as the case may be.

28. When the girl below 18 years is involved in a relationship with the teen age boy or little over the teen age, it is always a question mark as to how such relationship could be defined, though such relationship would be the result of mutual innocence and biological attraction. Such relationship cannot be construed as an unnatural one or alien to between relationship of opposite sexes. But in such cases where the age of the girl is below 18 years, even though she was capable of giving consent for relationship, being mentally matured,



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unfortunately, the provisions of the POCSO Act get attracted if such relationship transcends beyond platonic limits attracting strong arm of law sanctioned by the provisions of POCSO Act, catching up with the so called offender of sexual assault, warranting a severe imprisonment of 7/10 years.

29. Therefore, on a profound consideration of the ground realities, the definition of 'Child' under Section 2(d) of the POCSO Act can be redefined as 16 instead of 18. Any consensual sex after the age of 16 or bodily contact or allied acts can be excluded from the rigorous provisions of the POCSO Act and such sexual assault, if it is so defined can be tried under more liberal provision, which can be introduced in the Act itself and in order to distinguish the cases of teen age relationship after 16 years, from the cases of sexual assault on children below 16 years. The Act can be amended to the effect that the age of the offender ought not to be more than five years or so than the consensual victim girl of 16 years or more. So that the impressionable age of the victim girl cannot be taken advantage of by a person who is much older and crossed the age of presumable infatuation or innocence”.

8. Following the above judgment, this Court has quashed the final report in Crl.O.P.No.232 of 2021 dated 27.01.2021 [Vijayalakshmi and



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another Vs. State Represented by the Inspector of Police, All Women Police Station, Erode and another].

9. In the light of the above judgment, admittedly, in this case, the age of the victim girl at the time of occurrence is more than 16 years, i.e., 17 years and the accused was in his early 20's, i.e., a little over teen age at the time of occurrence. Therefore, even the accused can be considered to have not crossed the age of presumable infatuation or innocence. Admittedly, there was a love affair between them and therefore, the present case also falls under the teen age physical relationship which can be distinguished from the sexual assault on children below 16 years.

10. Further, the petitioner and the *de facto* complainant have got married and they are now having a male child and their families have also accepted them. Incidents of this nature keep occurring regularly even now in villages and towns and occasionally in cities. After the parents or family or the victim girl herself lodge a complaint, the Police register FIRs for offences of kidnapping and various offences under the POCSO Act. Several criminal cases booked under the POCSO Act fall under this category. As a



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consequence of such an FIR being registered, invariably the boy gets arrested and thereafter, his youthful life comes to a grinding halt. The provisions of the POCSO Act, as it stands today, will surely make the acts of the boy an offence due to its stringent nature. An adolescent boy or a youth in his early 20's caught in a situation like this will surely have no defence if the criminal case is taken to its logical end. Punishing an adolescent boy or youth who enters into a relationship with a minor girl by treating him as an offender, was never the objective of the POCSO Act. These incidents should never be perceived from an adult's point of view and such an understanding will, in fact, lead to lack of empathy. An adolescent boy/youth who is sent to prison in a case of this nature will be persecuted throughout his life. It is high time that the legislature takes into consideration cases of this nature involving adolescents/youth just above teen age, involved in such relationships, and swiftly bring in necessary amendments under the Act. The legislature has to keep pace with the changing societal needs and bring about necessary changes in law and more particularly, in a stringent law such as POCSO Act.

11. Now, the next issue that requires the consideration of this Court is



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as to whether this Court can quash the criminal proceedings involving non-compoundable offence pending against the petitioners, based on a compromise. The Hon'ble Supreme Court, in the case of ***Parbathbhai Aahir @ Parbathbhai Vs. State of Gujrath***, reported in ***2017 9 SCC 641*** and in case of ***The State of Madhya Pradesh Vs. Dhruv Gurjar and Another*** reported in ***(2019) 2 MLJ CrI 10***, has given sufficient guidelines that must be taken into consideration by the High Court while exercising its jurisdiction under Section 482 of Cr.P.C./Section 528 BNSS, to quash non-compoundable offence(s). One very important test that has been laid down is that the Court must necessarily examine as to whether the crime in question is purely individual in nature or a crime against the society with overriding public interest. The Hon'ble Supreme Court has held that offences against the society with overriding public interest even if it gets settled between the parties, cannot be quashed by this Court.

12.In the present case, the offences in question are purely individual/personal in nature. It involves the petitioner and the victim girl



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and their respective families only. It involves the future of two young persons who are still in their early twenties. Quashing the proceedings, will not affect any overriding public interest in this case and it will, in fact, pave way for the petitioner and the victim girl to settle down in their life and look for better future prospects. No useful purpose will be served in continuing with the criminal proceedings and keeping these proceedings pending will only swell the mental agony of the petitioner, victim girl and their parents as well.

13.In view of the above, this Court is inclined to quash the criminal proceedings as against the petitioner, in exercise of its jurisdiction under Section 528 of BNSS.

14.Accordingly, this Criminal Original Petition is allowed and the criminal proceedings in Spl.S.C.No.37 of 2023 on the file of the learned Sessions Judge, Fast Track Mahila Court, Krishnagiri, as against the petitioner, is quashed. The Joint Memo of Compromise filed by the petitioner and the 2nd respondent/de facto complainant and the individual affidavits filed by the petitioner and the 2nd respondent shall form part of



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the records.

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Internet : Yes

Index : Yes / No

Speaking order : Yes / No

Neutral Citation : Yes / No

To

- 1.The Sessions Judge,
Fast Track Mahila Court,
Krishnagiri.
- 2.The Inspector of Police,
All Women Police Station,
Denkanikottai,
Krishnagiri District.
- 3.The Public Prosecutor,
High Court, Madras.

N. SATHISH KUMAR, J.

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