



Crl.O.P.No.384 of 2023

IN THE HIGH COURT OF JUDICATURE AT MADRAS

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DATED: 25.02.2025

CORAM:

THE HONOURABLE MR. JUSTICE **G.K.ILANTHIRAIYAN**

Crl.O.P.No.384 of 2023

and

Crl.M.P.No.154 of 2023

1. P.Arun
2. P.Aarthi

... Petitioners

Vs.

1. State, rep.by Inspector of Police,
Mangalapuram Police Station,
Namakkal District
(Cr.No.39 of 2019)

2. K.Kalimuthu

.. Respondents

PRAYER: Criminal Original Petition is filed under Section 482 of Cr.P.C., to call for the records relating to Spl.C.C.No.23 of 2019 pending on the file of the Court of the Sessions Judge, (Fast Track Mahila Court), Namakkal and quash the same.

For Petitioners : Mr.S.Abu Backer Sidhic

For Respondents : Mr.K.M.D.Muhilan,
Government Advocate (for R1)



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ORDER

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This petition has been filed seeking to quash the proceedings pending in Spl.C.C.No.23 of 2019 on the file of the Court of the Sessions Judge, (Fast Track Mahila Court), Namakkal (hereinafter referred to as 'the Sessions Court' for short).

2. This peculiar petition has been filed by the Defacto Complainant and the victim girl, jointly seeking for quashing the proceedings pending against the second respondent who is facing trial before the Court below for offences under Section 366 of IPC, Sections 5(1) and 6 of the Prevention of Children from Sexual Offences, 2012 (hereinafter referred to as 'the POSCO Act' for short) and Section 9 of the Prohibition of the Child Marriage Act, 2006.

3. The case of the petitioners is that the second Petitioner, victim girl, is well known to the second respondent, and they were in love with each other. Ultimately, they decided to get married and went away from their respective homes and a police complaint came to be filed before the first Respondent and the same has now resulted in criminal proceedings against the second Respondent before the Sessions Court. However, even after the initiation of



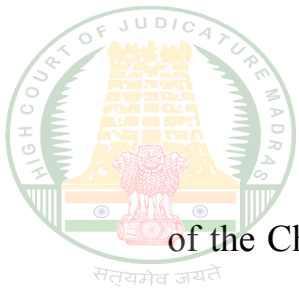
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criminal proceedings, the second petitioner and the second respondent are leading a happy married with love and consortium and also have given birth to a boy baby, who is 1¹/₂ years now. Therefore, the petitioners do not want to continue with the criminal proceedings against the second respondent as it is only causing mental agony to them.

4. The victim girl was examined as PW1 before the Sessions Court and she has deposed that there was no fault on the part of the second respondent and the occurrence had took place with her consent.

5. The learned Government Advocate (Criminal Side) appearing on behalf of the first respondent/Police submitted that though the petitioners seek to quash the criminal proceedings while the trial 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 at the will of the petitioners.

6. A reading of the Statement of Objects and Reasons of the POCSO Act would show that the Act was brought into force to protect children from offences of sexual assault, sexual harassment and pornography, pursuant to Article 15 of the Constitution of India, 1950 and the Convention on the Rights



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of the Child. There can be no second thought as to the seriousness of offences

under the POCSO Act and the object it seeks to achieve. However, it is also imperative for this Court to draw the thin line that demarcates the nature of acts that should not be made to fall within the scope of the Act, for such is the severity of the sentences provided under the Act, justifiably so, that if acted upon hastily or irresponsibly, it could lead to irreparable damage to the reputation and livelihood of youth whose actions would have been only innocuous. What came to be a law to protect and render justice to victims and survivors of child abuse, can, become a tool in the hands of certain sections of the society to abuse the process of law.

7. From the facts of the case, it is clear that the second petitioner who was in a relationship with the second respondent who is also in his early twenties, has stated that she was the one who insisted that the second respondent to take her away from her home and marry her, due to the pressure exerted by her elder brother. The second respondent, who was placed in a very precarious situation decided to concede to the demand of the second petitioner. Thereafter, they eloped from their respective homes, got married and consummated the marriage. After the first petitioner lodged a complaint, the first respondent/police registered FIRs for various offences under IPC and the



POCSO Act.



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8. The main issue that requires the consideration of this Court is as to whether this Court can quash the criminal proceedings involving non-compoundable offences pending against the second respondent. The Hon'ble Supreme Court of India in ***Parbathbhai Aahir @ Parbathbhai vs. State of Gujrath*** reported in 2017 9 SCC 641 and in ***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 this Court while exercising its jurisdiction under Section 482 of Cr.P.C, to quash non-compoundable offences. One very important test that has been laid down is that the Court must necessarily examine if 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.

9. However, the offences in question in this case are purely individual/personal in nature. It involves the second petitioner and the second respondent and their respective families only. Further, after the initiation of



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criminal proceedings, the second petitioner and the second respondent are leading a happy married with love and consortium and also given birth to a boy baby, who is 1½ years now. Therefore, quashing the criminal proceedings against the second respondent will not affect any overriding public interest in this case and it will in fact pave way for the second petitioner and the second respondent 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 cause mental agony to the petitioners and the second respondent.

10. Having regard to the peculiar facts of this case, this Court is inclined to quash the criminal proceedings in Spl.C.C.No.23 of 2019 pending on the file of the Court of the Sessions Judge, (Fast Track Mahila Court), Namakkal. Accordingly, the same is quashed.

11. The learned counsel for the petitioners would submit that the Registering Authority refused to register the marriage between the second petitioner and the second respondent by insisting for Certificate certifying that they have not married earlier.



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WEB COPY 12. In such circumstances, the concerned Registering Authority is directed to register their marriage on production of relevant documents without insisting any Certificate certifying that the second petitioner and the second respondent have not married earlier. Thereafter, the second petitioner and the second respondent are directed to produce the copy of their marriage registration certificate before the first respondent within a period eight weeks from the date of receipt of a copy of this order.

13. With the above directions, this Criminal Original Petition is allowed. Consequently, connected miscellaneous petition is closed.

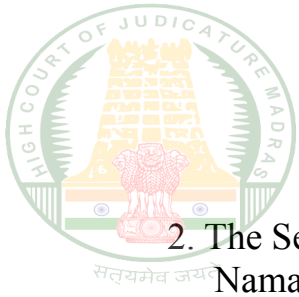
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Index : Yes/No
Neutral citation : Yes/No
Speaking/non-speaking order

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To

1. The Inspector of Police,
Mangalapuram Police Station,
Namakkal District.



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2. The Sessions Judge (Fast Track Mahila Court),
Namakkal.

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3. The Public Prosecutor,
High Court of Madras,
Chennai.



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G.K.ILANTHIRAIYAN, J.

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