

Crl.OP.No.25496 of 2025

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 17.09.2025

CORAM:

THE HONOURABLE MR.JUSTICE N. SATHISH KUMAR

Crl.O.P.No.25496 of 2025

Balamurugan

... Petitioner

Vs.

1. State, rep. by
The Inspector of Police
All Women Police Station-Perambalur
Perambalur District
(Crime No.09 of 202)

2. Logeshwari

3. XXXX

... Respondents

PRAYER: Criminal Original Petition filed under Section 528 of BNSS to call for the entire records in Spl.S.C.No.44 of 2023 on the file of the learned Sessions Judge, Mahila Court, Perambalur and quash the same on the ground of compromise.

For Petitioner : Mr.M.Vijayaragavan

For R1 : Mr.R.Vinothraja
Government Advocate (Crl. Side)

R2 and R3 : Appeared in person



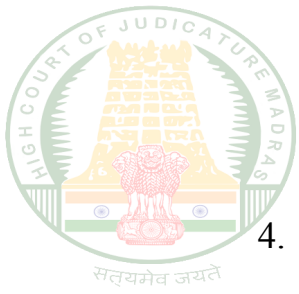
ORDER

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This Criminal Original Petition has been filed to quash the proceedings in Spl.S.C.No.44 of 2023 on the file of the learned Sessions Judge, Mahila Court, Perambalur for the offences under Sections 5(l), 5(j)(ii) read with Section 6 of POCSO Act, Section 363 and 366 of IPC and Section 9 of Prohibition of Child Marriage Act, on the ground of compromise.

2. Based on the complaint lodged by the mother of the victim girl alleging that the petitioner developed love affair with the victim girl and committed penetrative sexual assault on her and subsequently performed child marriage with the victim girl, a case was registered against the petitioner in Crime No.9 of 2021 and on completion of investigation, the charge sheet has been filed.

3. The learned counsel for the petitioner submitted that now the victim girl has attained majority. The petitioner and the victim girl got married and out of their wedlock, a male child has born to them. Hence, he seeks to quash the proceedings against the petitioner.



4. The petitioner and the victim girl were present along with their child before this Court at the time of hearing. The mothers of both the victim and the accused are also present. This Court examined the victim girl and she stated that she is living together with the petitioner and prayed to quash the criminal proceedings against the petitioner. A Joint Compromise Memo dated 02.09.2025 has also been filed to that effect.

5. The learned Government Advocate (Crl. Side) appearing on behalf of the first respondent submitted that though the parties 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.

6. 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 here under for proper appreciation:

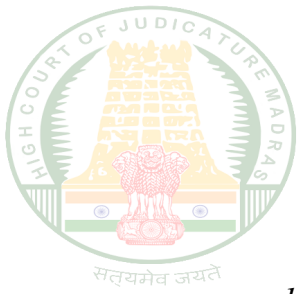


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“ 21.When this case was taken up for hearing, this Court became concerned about the growing incidence of offences under the POCSO Act on one side and also the Rigorous Imprisonment envisaged in the Act. Sometimes it happens that such offences are slapped 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 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.



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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, 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*



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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”.

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

8. In light of the above judgments, in the present case the victim girl/3rd respondent who is the daughter of the second respondent has married to the petitioner and living together and a child has also been born to them. Incidents of this nature keep occurring regularly even now in villages and towns and occasionally in cities. After the parents or family 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 consequence of such a 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 caught in a situation like this will surely have no defense if the criminal case is taken to its logical end. Punishing an adolescent boy 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 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 involved in 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 the POCSO Act.

9. 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 petitioner. 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 Crl 10***, has given sufficient guidelines that must be taken into consideration



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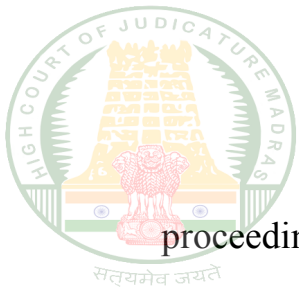
by this Court while exercising its jurisdiction under Section 482 of Cr.P.C,

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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.

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

11. In view of the above, this Court is inclined to quash the criminal



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proceedings against the petitioner in Spl.S.C.No.44 of 2023 on the file of the learned Sessions Judge, Mahila Court, Perambalur in exercise of its jurisdiction under Section 482/Cr.P.C/528 of BNSS.

12. Accordingly, this Criminal Original Petition is allowed and the criminal proceedings against the petitioner in Spl.S.C.No.44 of 2023 on the file of the learned Sessions Judge, Mahila Court, Perambalur, is quashed. The Joint Compromise Memo dated 02.09.2025 filed by the parties to compromise the offence shall form part of the record.

17.09.2025

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Index: Yes/No

Speaking/Non-speaking order

Internet: Yes

Neutral Citation: Yes/No

To

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



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N. SATHISH KUMAR, J.

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