

Crl.O.P.(MD)No.6197 of 2024

BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

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DATED : 11.07.2025

CORAM :

THE HON`BLE MR.JUSTICE B.PUGALENDHI

Crl.O.P.(MD)No.6197 of 2024

Thangamari

... Petitioner

Vs.

1. The Inspector of Police,
All Women Police Station,
Thirumangalam,
Madurai District.
Crime No.16 of 2022.

2. S.Babyjeevaselvamani
3. xxxx

... Respondents

Prayer : Criminal Original Petition filed under Section 528 BNSS, to call for the records pertaining to the impugned Charge Sheet in Spl.S.C.No.190 of 2022 on the file of the Principal Special Court for Exclusive Trial of Cases under POCSO Act, Madurai and quash the same and pass such further or other orders.

For Petitioner

: Mr.R.Shankar Ganesh

For R1

: Mr.A.S.Abul Kalaam, Azad,
Government Advocate(Crl.side)

For R3

: Mr. Guru.Muruganantham

R2 Died



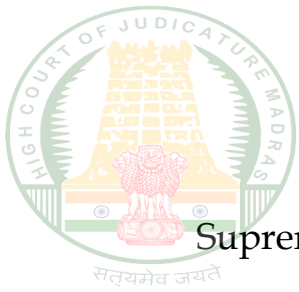
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ORDER

WEB COPY The petitioner is the sole accused in Spl.S.C.No.190 of 2022 for the offence under Section 9 of the Prohibition of Child Marriage Act, 2000 and Sections 4(2), 5(1), 5(j)(ii), 6 of the Protection of Children from Sexual Offences Act, 2012 on the file of the Principal Special Court for Exclusive Trial of Cases under POCSO Act, Madurai. He has filed this application to quash the proceedings pending against him, on the ground that the issue has been amicably settled among themselves.

2.The prosecution case is that the petitioner and the third respondent, who is a minor, had love affair and they have married and thereafter, she got pregnant. Therefore, on the complaint of the Social Welfare Officer, a case in Cr.No.16 of 2022 has been registered and upon completion of investigation, final report has also been filed as against the petitioner.

3.The case has been registered for the offence under Section 9 of the Prohibition of Child Marriage Act, 2000 and Sections 4(2), 5(1), 5(j)(ii), 6 of the Protection of Children from Sexual Offences Act, 2012 , which are non-compoundable offences. However, the Hon'ble



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Supreme Court, in *Parbathbhai Aahir @ Parbathbhai Vs. State of*
WEB COPY *Gujrath* [2017 9 SCC 641] and in *The State of Madhya Pradesh Vs.*

Dhruv Gurjar and Another [(2019) 2 MLJ CrI 10], has given sufficient guidelines that must be taken into consideration by the Court while exercising its jurisdiction under Section 482 of Cr.P.C,(528 BNSS) to quash non-compoundable offences. One very important test that has been laid down is that the Court must necessarily examine whether the crime in question is purely individual in nature or a crime against the society with overriding public interest. It has been repeatedly cautioned that offences against the society with overriding public interest even if it gets settled between the parties, cannot be quashed by this Court.

4.Though this Court is not inclined to entertain this petition at the first instance, a similar issue has been dealt by this Court in *Vijayalakshmi and Ors Vs State and Ors reported in (2021) 2 CTC 191*, as follows:-

17.This Court is not turning a blind eye to cases where the victim or survivor may, under the effect of trauma that they have undergone, studies on which show that they might



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tend to reconcile with the same by blaming themselves or convincing themselves that the element of consent was infact present. Nor is this Court scientifically justifying in toto, the genuineness or predicament of the accused in every case where it appears that the accused and victim child have been in a romantic relationship. That will depend on the facts and circumstances of each and every case.

18.In the present case, the 2nd Petitioner who was in a relationship with the 2nd Respondent who is also in his early twenties, has clearly stated that she was the one who insisted that the 2nd Respondent take her away from her home and marry her, due to the pressure exerted by her parents. The 2nd Respondent, who was placed in a very precarious situation decided to concede to the demand of the 2nd Petitioner. Thereafter, they eloped from their respective homes, got married and consummated the marriage. 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



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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. An adolescent boy and girl who are in the grips of their hormones and biological changes and whose decision-making ability is yet to fully develop, should essentially receive the support and guidance of their parents and the society at large. 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.

19. The main issue that requires the consideration of this Court is as to whether this Court can quash the criminal proceedings involving noncompoundable offences pending against the second respondent. The Hon'ble Supreme Court in the case of Parbathbhai Aahir @ Parbathbhai Vs. State of Gujraath, reported in 2017 9 SCC 641 and in case of The State of Madhya Pradesh Vs. Dhruv Gurjar and Another reported



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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.

20. In the present case, the offences in question are purely individual/personal in nature. It involves the 2nd Petitioner and the 2nd Respondent and their respective families only. It involves the future of two young persons who are still in their early twenties. The second respondent is working as an Auto driver to eke his livelihood. Quashing the proceedings, will not affect any overriding public interest in this case and it will in fact pave way for the 2nd Petitioner and the 2nd 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 only swell the mental agony of the victim girl and her mother and not to forget the 2nd Respondent as well.

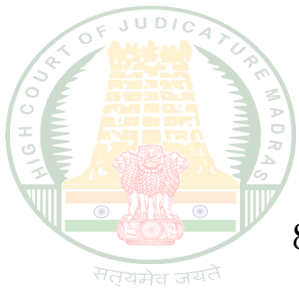


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WEB COPY 5. Therefore, this Court entertained this petition, ordered notice and also directed the investigation officer to ascertain as to whether the compromise arrived between the parties is a voluntary one, without any threat or coercion.

6. The learned counsel appearing for the petitioner submits that the victim child has attained the age of major. The petitioner and the victim got married, they have two children and the victim is living with the petitioner and she is not interested to prosecute the case.

7. The learned Government Advocate(Crl.side) appearing for the first respondent submits that the Social Welfare Officer, who has lodged the complaint as against the petitioner, died on 16.10.2022. A death certificate has also been placed before this Court. The learned Government Advocate(Crl.side) also confirms that the marriage between the petitioner and the victim is a love marriage and it is not performed under any threat or coercion. He also confirms that the victim is having two children and living with the petitioner.



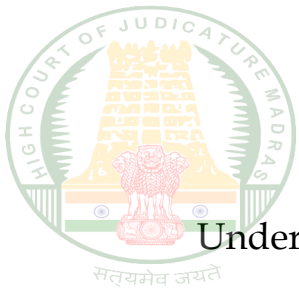
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8.The petitioner and the victim are present before this Court today. The victim submits that she is not inclined to prosecute the case against her husband and she is depending on her husband for her livelihood.

9.The object of the Prohibition of Child Marriage Act, is to ensure that the minor children are not subjected to marriage and their future should not be affected. No doubt a case has been registered when the victim child was admitted in the Government Hospital for delivery. The victim has stated that their marriage is a love marriage without knowing the consequences and it is not on compulsion. Now, they have also filed a joint compromise memo dated 21.01.2025.

10.The investigation officer, after verification, has filed a report that the compromise arrived upon between the parties is genuine, without any threat or coercion.

11.This Court has verified the parties with their Aadhar Cards and also verified as to the present status. The parties have expressed their willingness to solve the issue. The third respondent herself has submitted that she does not want to prosecute the case any further.



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Under such circumstances, no useful purpose will be served in keeping the case pending, even though the offences involved are not compoundable in nature. On the other hand, keeping the proceedings pending will only swell the mental agony of the parties.

12.In view of the above position and following the guidelines issued by the Hon'ble Supreme Court in the cases referred supra, this Court is inclined to quash the proceedings, though certain offences are non-compoundable, in order to avoid further conflict between the parties.

13.Accordingly, this original petition is allowed and the proceedings in Spl.S.C.No.190 of 2022 on the file of the Principal Special Court for Exclusive Trial of Cases under POCSO Act, Madurai is hereby quashed. The joint compromise memo dated 21.01.2025, signed by the parties, shall form part and parcel of this order.

11.07.2025

NCC : Yes/No
Index : Yes/No
Internet:Yes
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To

1. The Inspector of Police,
All Women Police Station,
Thirumangalam,
Madurai District.
- 2.The Principal Special Court for Exclusive-
Trial of Cases under POCSO Act,
Madurai.
3. The Additional Public Prosecutor,
Madurai Bench of Madras High Court,
Madurai.



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B.PUGALENDHI,J

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