



Crl.O.P.(MD)No.11205 of 2024

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BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

DATED: 30.01.2025

CORAM

THE HON'BLE MR.JUSTICE M.NIRMAL KUMAR

Crl.O.P.(MD)No.11205 of 2024
and Crl.M.P(MD).No.7303 of 2024

Dinesh

... Petitioner

Vs.

1.State rep., by
The Inspector of Police,
All Women Police Station,
Thirumangalam, Madurai District.
Crime No.18 of 2021

2.R.Sumathi

3.Pandiselvi

... Respondents

(the third respondent is impleaded vide order of this Court dated
16.12.2024 in Crl.M.P(MD).No.13785 of 2024 in
Crl.O.P(MD).No.11205 of 2024 by KKRKJ)

PRAYER : Criminal Original Petition filed under Section 528 of BNSS, 2023, to call for the records relating to the impugned charge sheet in Spl.S.C.No.151 of 2022 on the file of the Principal Special Court for Exclusive Trial of Cases under POCSO Act, Madurai and quash the same.



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For Petitioner : Mr.K.Rajeshwaran
For R1 : Mr.K.Sanjai Gandhi
Government Advocate (Crl. Side)
For R3 : Mr.C.Jeyganathan

ORDER

This Criminal Original Petition has been filed to quash the proceedings in Spl.S.C.No.151 of 2022 on the file of the Principal Special Court for Exclusive Trial of Cases under POCSO Act, Madurai.

2. The case of the prosecution is that the petitioner is the relative of victim. When the victim was studying 11th standard, the petitioner married the victim and out of the wedlock, she became pregnant. Thereafter, the victim was admitted at Government Rajaji Hospital, Madurai, and she gave birth to a male child on 09.08.2021. Based on the information given by the hospital authorities, the second respondent lodged a complaint against the petitioner. Hence the case.

3. The learned counsel appearing for the petitioner as well as the learned counsel appearing for the third respondent submitted that now, the petitioner and the third respondent married living together as husband



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and wife with their child, issues amicable resolved and the third respondent is not willing to proceed further with the criminal case against the petitioner.

4. Today, when the matter was taken up for hearing, a joint Memo of Compromise filed before this Court signed by the petitioner and the third respondent and their respective counsels. The petitioner and the third respondent are present before this Court, identified by the first respondent police, as well as by the learned counsels appearing for the parties. This Court enquired both the parties, satisfied that the parties have come to an amicable settlement between themselves on their own voluntarily without any compulsion.

5. When this Court interacted with the third respondent, she confirmed her marriage with the petitioner and both living as husband and wife happily along with their child and she intends not to pursue the criminal proceedings against the petitioner.



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6. The case has been registered for offences under Section 9 of Prohibition of Child Marriage Act and Sections 5(1), 5(j)(ii) r/w Section 6 of POCSO Act. It is settled law that the High Court has inherent power under Section 482 of the Code of Criminal Procedure to quash the criminal proceedings even for the offences which are not compoundable under Section 320 of the Code of Criminal Procedure, where the parties have settled their dispute between themselves. However, while quashing the criminal proceedings, based on the settlement arrived at between the parties, the High Court should act with caution and the power should be exercised sparingly only in order to secure the ends of justice and also to prevent abuse of process of any Court.

7. Further, the Hon'ble Apex Court in the case of ***K.Dhandapani Vs. The State by the Inspector of Police*** reported in ***2022 SCC Online SC 1056***, has held as follows:

“In the peculiar facts and circumstances of this case, we are of the considered view that the conviction and sentence of the appellant who is maternal uncle of the prosecutrix deserves to be set aside in view of the



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subsequent events that have been brought to the notice of this Court. This Court cannot shut its eyes to the ground reality and disturb the happy family life of the appellant and the prosecutrix. We have been informed about the custom in Tamilnadu of the marriage of a girl with the maternal uncle”.

8. The legal position expressed by the Hon'ble Apex Court in the case of ***Gian Singh vs. State of Punjab and another*** reported in (2012) ***10 SCC 303*** and ***Parbatbhai Aahir @ Parbatbhai Vs. State of Gujarat*** reported in (2017) ***9 SCC 641*** were taken into consideration.

9. Keeping the above principles in mind, let us now consider the instant case as to whether it is a fit case to quash the criminal proceedings based on the settlement arrived at between the parties.

10. In the case at hand, though the petitioner is charged with for the offences punishable Section 9 of Prohibition of Child Marriage Act and Sections 5(1), 5(j)(ii) r/w Section 6 of POCSO Act, now, the



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petitioner and the third respondent have amicably resolved their dispute between themselves. In this regard, the third respondent has also filed an affidavit. The petitioner is the sole breadwinner, the third respondent and child are solely depend on the income of the petitioner for their livelihood. The petitioner is taking care of the well being of the third respondent and child and they are showered with love and affection. unless the conviction is set aside, the petitioner, third respondent and the child cannot lead a peaceful and happy family. Considering the welfare and wellbeing of the victim and the child, it would be appropriate to accept the attending circumstances and the compromise arrived.

11. In view of the compromise between the parties, the possibility of conviction is also remote and bleak. In the above circumstances, continuity of the criminal proceedings would only cause oppression and prejudice to the parties, hence, in order to secure the ends of justice, this Court is inclined to quash the criminal proceedings.

12. Accordingly, this Criminal Original Petition is allowed and the criminal proceedings initiated against the petitioner in Spl.S.C.No.151 of



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2022 on the file of the Principal Special Court for Exclusive Trial of Cases under POCSO Act, Madurai, is quashed and the terms of joint compromise memo and affidavit filed by the third respondent shall form part and parcel of this order. Consequently, connected Miscellaneous Petition is closed.

NCC : Yes / No
Index : Yes / No
Rmk

30.01.2025

To

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



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M.NIRMAL KUMAR, J.

Rmk

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