



Crl.O.P.(MD) No.15208 of 2024

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BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

DATED : 07.01.2025

CORAM

THE HON'BLE MR.JUSTICE M.NIRMAL KUMAR

Crl.O.P.(MD) No.15208 of 2024

Esaimuthu

... Petitioner

Vs.

1.The State of Tamil Nadu
Rep. by Inspector of Police,
AWPS – Valliyur,
Tirunelveli.

2.Suzilagunam,
Social Extension Officer,
Radhapuram, Tirunelveli.

3.xxxxxxxx

... Respondents

Prayer: Criminal Original Petition filed under Section 482 of Criminal Procedure Code, 1973 to call for the records in Spl.C.C.No.63 of 2022 on the file of the Special Court for Trial of Cases under POSCO Act, Tirunelveli and quash the same.

For Petitioner : M/s.G.A.Srijala

For R1 : Mr.K.Sanjai Gandhi
Government Advocate (Crl.Side)

For R2 : Mr.Siva Subramanian



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ORDER

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2. On 15.12.2020, the second respondent filed a complaint with the first respondent based on information received from the Child Welfare Committee and the Social Welfare Officer on 10.12.2020. The case of the prosecution is that the petitioner is the victim child's uncle. The victim child's grandmother's house is located near the petitioner's residence. The prosecution alleges that whenever the victim child visited her grandmother, the petitioner interacted with her, and they developed an intimate relationship. Subsequently, whenever the petitioner's house was unoccupied, he would call the victim child over; she would visit and then return home. On one specific occasion, the petitioner took the victim child to his house when no one else was present. Exploiting this situation, the petitioner, under the pretext of marriage, lured and forcibly subjected the victim child to penetrative sexual assault. This pattern of aggravated penetrative assault continued repeatedly over a period of time. As a result,



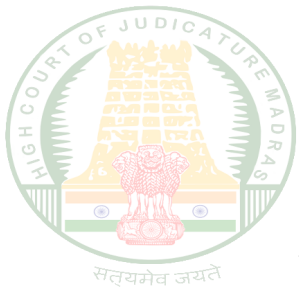
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the victim child became pregnant and gave birth to a female child on 29.05.2021. Based on the information received, the second respondent, acting in their capacity as a social extension officer, lodged the aforementioned complaint.

3. The learned counsel appearing for the petitioner would submit that the second respondent has lodged a complaint before the first respondent and on that basis, F.I.R. came to be registered in Crime No.10 of 2020 and after investigation and filing of the final report, the same was taken cognizance in Spl.C.C.No.63 of 2022, on the file of the Special Court for Trial of Cases under POSCO Act, Tirunelveli, for the offences punishable under Sections 366 of I.P.C. and Sections 5(j)(ii), 5(l), 5(n) & 6 of the Protection of Child from Sexual Offences Act, 2012 against the petitioner.

4. The case is now under trial. By passage of time, the petitioner and the victim child (the third respondent herein) have married and are now living together peacefully. Consequently, they have decided to bury their hatchet and compromise the dispute amicably among themselves.



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5. A Joint Memo of Compromise, dated 17.06.2024, has been filed before this Court, which has been signed by the petitioner and the third respondent and also by their respective counsel. The petitioner and third respondent were also present in person before this Court and they were identified by Mr.P.Subramanian, Special Sub-Inspector of Police, Panakudi Police Station, Tirunelveli District, as well as by the learned counsels appearing for the parties. This Court also enquired of both parties and is satisfied that they have married, are living together peacefully, and have reached an amicable settlement between themselves.

6. In the instant case, now the parties had compromised and are living together, peacefully. Where the parties have compromised the matter, the High Court has power to quash the complaint for the offences punishable under Sections 366 of I.P.C. and Sections 5(j)(ii), 5(l), 5(n) & 6 of the Protection of Child from Sexual Offences Act, 2012.

7. The legal position expressed by the Hon'ble Apex Court in the case of ***K.Dhandapani vs. The State by the Inspector of Police*** reported in ***2022 LiveLaw (SC) 477***, were taken into consideration. The relevant portion of the said judgment reads as under:-



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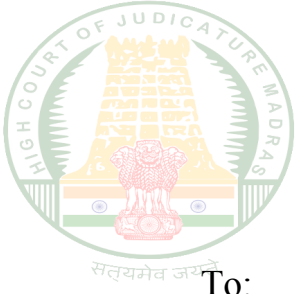
*“Protection of Child from Sexual Offences Act, 2012;
Section 5, 6 – Conviction of Protection of Child set aside
after noticing that he married the victim girl and has two
children- Court cannot shut its eyes to the ground reality and
disturb the happy life of the appellant and the prosecutrix. We
have been informed about the customs in Tamil Nadu of the
marriage of a girl with the maternal uncle”*

8. In the light of the guidelines issued in the above said judgments of the Hon'ble Apex Court, no useful purpose will be served in keeping the proceedings in Spl.C.C.No.63 of 2022 as against the petitioner pending before the Special Court for Trial of Cases under POSCO Act, Tirunelveli, even though, the offences involved are not compoundable in nature.

9. Accordingly, this Criminal Original Petition is allowed and the proceedings in Spl.C.C.No.63 of 2022, on the file of the Special Court for Trial of Cases under POSCO Act, Tirunelveli, is quashed as against the petitioner and the Joint Compromise Memo, dated 17.06.2024, shall form part and parcel of this order.

07.01.2025

Index: Yes/ No
Neutral Citation: Yes / No
Speaking Order/Non-Speaking Order
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To:
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- 1.The Inspector of Police,
AWPS – Valliyur,
Tirunelveli.
- 2.The Social Extension Officer,
Radhapuram, Tirunelveli.
- 3.The Additional Public Prosecutor,
Madurai Bench of Madras High Court,
Madurai.



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M.NIRMAL KUMAR, J.

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