



Crl.O.P.(MD)No.21773 of 2024

BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

DATED: 09.01.2025

CORAM

THE HON'BLE MR.JUSTICE M.NIRMAL KUMAR

Crl.O.P.(MD)No.21773 of 2024
and Crl.M.P(MD).Nos.13508 and 13506 of 2024

Mufeena

... Petitioner

Vs.

1.State of Tamil Nadu,
rep., by the Inspector of Police,
Adirampattinam Police Station,
Thanjavur District.
Crime No.479 of 2022

2.Shahul Hameed
3.Aathif

... Respondents

PRAYER : Criminal Original Petition filed under Section 528 of BNSS Act, to call for the records pertaining to the charge sheet in Spl.S.C.No. 18 of 2023 before the file of the learned Special Court for POCSO Act Cases, Thanjavur District and quash the same.

For Petitioners	: Mr.D.S.Haroon Rasheed
For R1	: Mr.K.Sanjai Gandhi Government Advocate (Criminal Side)
For R2 & R3	: Ms.N.Safiya



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ORDER

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This Criminal Original Petition has been filed seeking orders to call for the records in Spl.S.C.No.18 of 2023 before the file of the learned Special Court for POCSO Act Cases, Thanjavur District, and quash the same as illegal, improper and abuse of process of law.

2. The case of the prosecution is that the second respondent/defacto complainant lodged a complaint stating that his son namely Aathif/third respondent herein was missed. Based on the same, FIR in Crime No.479 of 2022 was registered. Thereafter, on information, the said Aathif was found and on enquiry, he submitted that the petitioner forcibly take the third respondent to Coimbatore and had a penetrative sexual assault against him. Thereafter, case was altered into Sections 363 of IPC and Sections 5(1) and 6 of POCSO Act.

3. The learned counsel appearing for the petitioner as well as the learned counsel appearing for the second and third respondents submitted that now, the petitioner and the second and third respondent/victim have settled the dispute between themselves amicably and the second and third respondents are not willing to proceed further with the criminal case.



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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 second and third respondents and their respective counsels. The petitioner and the second and third respondents present before this Court, identified by Mr.T.Saravanan, Head Constable, Adirampattinam Police Station, Thanjavur District, 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. The relevant portion of the affidavit
reads as follows:

“4.The petitioner/sole accused and the second and third respondents would jointly submit that the matter has been compromised between both of them with intervention of the Mediator and well-wishers of both sides without any inducement made by others. The defacto complainant and the victim boy have specifically admitted that they have no objection if the charge sheet in question is quashed. Further they have



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given an undertaking that defacto complainant is ready to withdraw the complaint and no objection to quash the charge sheet in Spl.S.C.No.18 of 2023 before the file of the learned Special Court for POCSO Act Cases, Thanjavur District”.

6. The case has been registered for offences under Sections 363 of IPC and Sections 5(1) and 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. 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)



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10 SCC 303 and *Parbatbhai Aahir @ Parbatbhai Vs. State of Gujarat*

reported in **(2017) 9 SCC 641** were taken into consideration.

8. 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.

9. In the case at hand, though the petitioner is charged with for the offences punishable under Sections 363 of IPC and Sections 5(1) and 6 of POCSO Act, now, the petitioner and the second and third respondents have amicably settled their dispute between themselves. The second and third respondents have also filed an affidavit. 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.

10. Accordingly, this Criminal Original Petition is allowed and the proceedings in Spl.S.C.No.18 of 2023 before the file of the learned



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Special Court for POCSO Act Cases, Thanjavur District, is quashed as against the petitioner and the joint compromise memo shall form part and parcel of this order. Consequently, connected Miscellaneous Petitions are closed.

NCC : Yes / No
Index : Yes / No
Rmk

09.01.2025

To

- 1.The Judge, Special Court for POCSO Act Cases, Thanjavur District.
- 2.The Inspector of Police,
Adirampattinam Police Station,
Thanjavur District.
- 3.The Additional Public Prosecutor,
Madurai Bench of Madras High Court,
Madurai.



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M.NIRMAL KUMAR, J.

Rmk

Order made in
Crl.O.P.(MD)No.21773 of 2024

Dated: 09.01.2025