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BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

DATED: 20.01.2025

CORAM

THE HON'BLE MR.JUSTICE M.NIRMAL KUMAR

Crl.O.P.(MD)No.22197 of 2024

Edison ... Petitioner

Vs.

1. State rep., by
   The Inspector of Police
   All Women Police Station,
   Palayankottai, Tirunelveli District.
   Crime No.31 of 2024

2. Gopi ... Respondents

PRAYER : Criminal Original Petition filed under Section 528 of BNSS, to call for the records pertaining to the FIR in Crime No.31 of 2024 on the file of the first respondent police and quash the same.

For Petitioners : Mr.R.Mohanasundaram

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

For R2 : Mr.A.Sankara Subramanian

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ORDER

The Criminal Original Petition has been filed to quash the First Information Report in Crime No.31 of 2024 on the file of the first respondent Police.

2. The case of the prosecution is that the second respondent and the petitioner are husband and wife. Due to some misunderstanding, the second respondent/defacto complainant left her husband and daughter. Taking advantage of the same, the petitioner on drunken mood sexually abused the victim girl/daughter. Hence, the complaint.

3. When the matter is taken up for hearing today, the learned counsel appearing for the petitioner would submit that the second respondent has lodged a complaint before the first respondent Police and on that basis, F.I.R. came to be registered in Crime No.31 of 2024, dated 22.07.2024 for the offences under Sections 11(1) and 12 of Protection of Child from Sexual Offences Act, 2012, against the petitioner.

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4. The learned counsel appearing for the petitioner as well as the learned counsel appearing for the second respondent submitted that now, the petitioner and the second respondent have settled the dispute between themselves amicably and the second respondent is not willing to proceed further with the criminal case.

5. 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 respondent and their respective counsels. The petitioner and the second respondent present before this Court, identified by Ms.S.Bagavathy, WSSI, AWPS, Palayamkottai, Tirunelveli City, 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.

6. The second respondent had stated that she and the petitioner are husband and wife and considering their children' future, she intends to withdraw the complaint against the petitioner. She has also filed filed an affidavit. The relevant portion of the affidavit reads as follows:

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" .....4. It is submitted that the petitioner herein is my husband, out of wedlock we have blessed with one male and one female child. During my matrimonial life some misunderstanding were arose between I and the petitioner. Therefore, I lodged complaint against the petitioner. Now by taking consideration of the future life of our children I and the petitioner amicably settle the entire issue without making any allegations each other. As a result, I show my intent to drop the criminal proceedings pending against the petitioner herein. In view of the same, I have no objection to quash the FIR in Crime NO.31 of 2024 on the file of the first respondent dated 22.07.2024.....".

7. The case has been registered for offences under Sections 11(1) and 12 of Protection of Child from Sexual Offences Act, 2012. 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

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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.

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 FIR has been registered for the offences punishable under Sections 11(1) and 12 of Protection of Child from Sexual Offences Act, 2012, now, the petitioner and the second respondent have amicably settled their dispute between themselves. The second respondent has also filed an affidavit. The dispute between husband and wife has been magnified and stamped as an POCSO

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offence. The victim is minor daughter. Now, all are residing together as a family happily. 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.

11. Accordingly, this Criminal Original Petition is allowed and FIR in Crime No.31 of 2024 registered against the petitioner on the file of the first respondent, is hereby quashed and the terms of joint compromise memo and affidavit filed by the second respondent shall form part and parcel of this order.

20.01.2025

NCC : Yes / No
Index : Yes / No
Rmk

To

1.The Inspector of Police
All Women Police Station,
Palayankottai, Tirunelveli District.

2.The Additional Public Prosecutor,
Madurai Bench of Madras High Court,
Madurai.

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M.NIRMAL KUMAR, J.

Rmk

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