



Crl.O.P.(MD)No.22809 of 2024

BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

DATED: 06.01.2025

CORAM

THE HON'BLE MR.JUSTICE M.NIRMAL KUMAR

Crl.O.P.(MD)No.22809 of 2024
and Crl.M.P(MD).Nos.14285 and 14286 of 2024

1.Senthooran
2.Ramar
3.Kalaivani

... Petitioners

Vs.

1.State of Tamil Nadu,
rep., by its the Inspector of Police,
T.Kallupatti Police Station,
T.Kallupatti, Madurai District.
Crime No.161 of 2022

2.Marieswari

3.XXX

... Respondents

PRAYER : Criminal Original Petition filed under Section 528 of BNSS, 2023, to call for the records pertaining to Spl.S.C.No.335 of 2022 on the file of the Principal Special Court for Exclusive Trial of Cases under POCSO Act, Madurai and quash the same as illegal as against the petitioners/accused 1 to 3.



WEB COPY



Crl.O.P.(MD)No.22809 of 2024

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

ORDER

This Criminal Original Petition has been filed to quash the proceedings in Spl.S.C.No.335 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 first petitioner aged about 21 years and residing near victim girl area had committed penetrative sexual assault to the third respondent, who is aged about 18 years and thereby, the third respondent became pregnant. Thereafter, the first petitioner and the third respondent got married and stayed along with victim girl' parents' house, who are the second and third petitioners. When the victim girl went for medical checkup, at that time, the second respondent /Social Welfare Officer questioned the same and lodged complaint against the petitioners.

3. The learned counsel appearing for the petitioners as well as the learned counsel appearing for the third respondent submitted that now,



Crl.O.P.(MD)No.22809 of 2024

the petitioners and the third respondent/victim have settled the dispute between themselves amicably and the third respondent/victim is not willing to proceed further with the criminal case.

4. Today, when the matter was taken up for hearing a joint Memo of Compromise filed before this Court signed by the petitioners and the third respondent and their respective counsels. The petitioners and the third respondent present before this Court, identified by Ms.Kavitha, SI of Police, Nagayapuram Police Station, I/C T.Kallupatti Police Station, Madurai 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 third respondent had stated that both the first petitioner and the third respondent loved each other and close relatives. They got married and out of their wedlock, they are blessed with female baby on 26.10.2022 and they are living happily. Hence, she had intended to withdraw the complaint against the petitioners. She has also filed an affidavit. The relevant portion of the affidavit reads as follows:



WEB COPY



Crl.O.P.(MD)No.22809 of 2024

“4. I humbly submit that the myself and first petitioner belongs to same village and we loved each other and close relative. On the basis of the love affair both are got married. After the marriage, myself and first petitioner are peacefully running matrimonial life. Out of our wedlock we have blessed with daughter namely Rakshna on 26.10.2022. Now both the family were accepted my marriage and they peacefully running the matrimonial life without any remarks.

5. I respectfully submit that due to matrimonial life, first petitioner has provided basic need and amenities to me without any remarks. Hence we have planned to compromise the issue, it has been taken place purely voluntary by me and want to withdraw the present complaint and criminal case.....”.

6. The case has been registered for offences under Sections 376(3) of IPC and Sections 5(i), 5(i)(ii), 6, 16 and 17 of POCSO Act and



Crl.O.P.(MD)No.22809 of 2024

Section 9 of Prohibition of Child Marriage Act, 2006. 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 subsequent events that have been brought to the notice of



Crl.O.P.(MD)No.22809 of 2024

WEB COPY

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 under Sections 376(3) of IPC and Sections 5(i), 5(i)(ii), 6, 16 and 17 of POCSO Act and Section 9 of Prohibition of Child Marriage Act, 2006, now, the petitioner and the third respondent/victim



Crl.O.P.(MD)No.22809 of 2024

have amicably settled their dispute between themselves. The third respondent/victim has also filed an affidavit stating that she has married the petitioner. 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 the criminal proceedings initiated against the petitioner in Spl.S.C. No.335 of 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 Petitions are closed.

NCC : Yes / No
Index : Yes / No
Rmk

06.01.2025



Crl.O.P.(MD)No.22809 of 2024

WEB COPY

To

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



WEB COPY



Crl.O.P.(MD)No.22809 of 2024

M.NIRMAL KUMAR, J.

Rmk

Crl.O.P.(MD)No.22809 of 2024

06.01.2025