



Crl.O.P.(MD)No.22810 of 2024

BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

DATED: 02.01.2025

CORAM

THE HON'BLE MR.JUSTICE M.NIRMAL KUMAR

Crl.O.P.(MD)No.22810 of 2024

and

Crl.M.P.(MD)No.14284 of 2024

Vijay Pandi

... Petitioner/Sole Accused

Vs.

1.The State Represented by
The Inspector of Police,
Alanganallur Police Station,
Madurai District.
Crime No.430 of 2021

... 1st Respondent/Complainant

2.Lakshmi

... 2nd Respondent/Defacto Complainant

3.XXXXXX

... 3rd Respondent/Victim

PRAYER : Criminal Original Petition filed under Section 528 of BNSS, 2023, to call for the entire records in relating to the impugned charge sheet in Spl.S.C.No.213 of 2022 on the file of the learned Principal Special Court for Exclusive Trial of Cases under POCSO Act, Madurai and to quash the same.

For Petitioner : Mr.M.S.Jeyakarthik

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



Crl.O.P.(MD)No.22810 of 2024

For R2 & R3 : Mr.M.P.Balaganesh

WEB COPY

ORDER

This Criminal Original Petition has been filed to quash the proceedings in Spl.S.C.No.213 of 2022 on the file of the learned Principal Special Court for Exclusive Trial of Cases under POCSO Act, Madurai.

2.The case of the prosecution is that the accused is aged about 21 years and the victim girl is aged about 16 years. The accused proposed his love to the victim girl and both eloped from their house and they got married on 21.11.2020. Thereafter, the accused and the victim lived as husband and wife and the accused had physical relationship with the victim. Hence, the victim got pregnant and she has begotten a female child on 22.09.2021 in Government Rajaji Hospital, Madurai. Based on the information received from the hospital, the defacto complainant lodged a complaint against the petitioner.



Crl.O.P.(MD)No.22810 of 2024

WEB COPY

3.The learned counsel appearing for the petitioner as well as the learned counsel appearing for the respondents 2 and 3 submitted that now, the petitioner 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 petitioner and the third respondent and their respective counsels. The petitioner and the third respondent present before this Court and they were identified by Mr.M.Ganesan, Special Sub-Inspector of Police, Alanganallur Police Station, 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 her date of birth is 24.03.2005 and now she has attained her majority and both of are leading their marital life peacefully and she had intended to withdraw the



Crl.O.P.(MD)No.22810 of 2024

WEB COPY

complaint against the petitioner. She has also filed an affidavit. The relevant portion of the affidavit reads as follows:

“4. It is most respectfully submitted that the date of birth of the third respondent/victim girl is 24.03.2005 and she attained her majority. The petitioner and the third respondent are husband and wife and they have been leading their marital life peacefully. Hence, the third respondent has no objection to quash the impugned charge sheet in Spl.S.C.No.213 of 2022 before the learned Principal Special Court for Exclusive Trial of Cases under POCSO Act, Madurai. In view of the above facts and circumstances, it is just and necessary to quash the above impugned charge sheet.”

6.The case has been registered for the offences under Section 9 of Prohibition of Child Marriage Act, 2006 and Sections 5(l), 5(j)(ii) 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



Crl.O.P.(MD)No.22810 of 2024

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 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)***



Crl.O.P.(MD)No.22810 of 2024

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

WEB COPY

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 Section 9 of Prohibition of Child Marriage Act, 2006 and Sections 5(l), 5(j)(ii) and 6 of POCSO Act, now, the petitioner and the third respondent/*victim* have amicably settled their dispute between themselves. The third respondent/victim has also filed an affidavit stating that she has attained her majority and both are leading their marital life peacefully. 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.



Crl.O.P.(MD)No.22810 of 2024

WEB COPY

11. Accordingly, this Criminal Original Petition is allowed and the criminal proceedings initiated against the petitioner in Spl.S.C.No.213 of 2022 on the file of the learned 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

02.01.2025

Index : Yes / No

sjj

To

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



WEB COPY



Crl.O.P.(MD)No.22810 of 2024

M.NIRMAL KUMAR, J.

sjj

Crl.O.P.(MD)No.22810 of 2024

02.01.2025