

Crl.O.P.(MD) No.12639 of 2023

BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

RESERVED ON : 01.02.2024

PRONOUNCED ON : .02.2024

CORAM

THE HON'BLE MR.JUSTICE **SATHI KUMAR SUKUMARA KURUP**

CRL.O.P (MD) No.12639 of 2023

1.Jayaram

2.Ramar @ Raman

3.Alagurani

4.Ramraj

...Petitioners

VS

1.State represented by  
The Inspector of Police,  
Dindigul Taluk Police Station,  
Dindigul District.

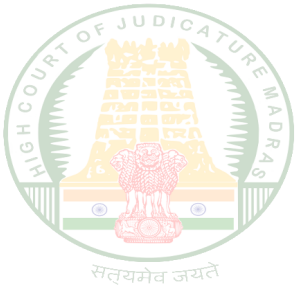
2.xxxxx

...Respondents

PRAYER: Criminal Original Petition filed under Section 482 of Cr.P.C, praying, to call for the records in Spl.S.C.No.129 of 2023 on the file of the learned Fast Track Mahila Court, Dindigul and to quash the same.

For Petitioner : Mr.N.Balasubramanian  
For R1 : Mr.M.Veeranthiran  
Government Advocate (Crl.side)  
For R2 :Mr.S.Vikraman

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## **ORDER**

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The Criminal Original Petition is filed to quash the case in Spl.S.C.No.129 of 2023 on the file of the learned Fast Track Mahila Court, Dindigul.

2. When the case came up for hearing on 31.01.2024, this Court was not inclined to allow this Petition. Therefore, a report was sought through the Government Advocate (Crl.side) directing the SHO concerned to enquire into the matter and get a detailed report. Therefore, a status report was filed. Also, the parties appeared and their statements were recorded to prove the husband and wife relationship. Ration card was also produced containing the names of the children. The Investigation Officer, who had initially investigated the matter and laid final report, also present and identified the accused.

3. The first Petitioner is A1 for the offences under the provisions of POCSO Act and Prohibition of the Child Marriage Act, 2006. A2 and A3 are the parents of the victim girl. A4 is the father of A1. As per the statement of the learned Counsel for the Petitioners, A1 and the victim are

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living as husband and wife. Now, the victim had attained the age of majority. Even prior to the age of majority, the victim was married to the accused. That is why the case came up before the Police for investigation through the intimation given by the Doctors in the Government hospital, where the victim was produced by her mother for medical check up. Subsequently, the Police arrived in the hospital and took a statement of the victim. Based on that, the case was registered under the provisions of POCSO Act and the Prohibition of Child Marriage Act, 2006.

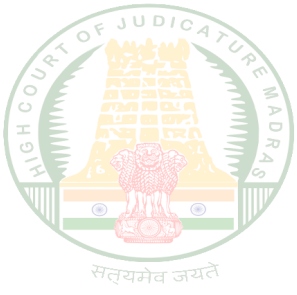
4.As per the case of the prosecution, A1 is the guilty of offences under the provisions of POCSO Act and the Prohibition of Child Marriage Act, 2006. A2 and A4, the parents of the victim and the father of A1 are guilty of offences under the provisions of Prohibition of Child Marriage Act, 2006. Now, as per the statement of the learned Counsel for the Petitioners, A1 and the victim girl are living as husband and wife and they had two minor children aged about 3 and 2 years respectively. If the trial concludes and ended in judgment, A1 to A4 have to be sentenced to imprisonment, whereby, A2 to A4 will have to undergo two years imprisonment for offences under the Prohibition of Child Marriage Act,



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2006 and A1 has to be sentenced to imprisonment for a period of not less than 20 years under the provisions of POCSO Act and the Prohibition of Child Marriage Act, 2006. If the case ends in conviction, an appeal has to be taken up. It will also be delayed. By that time, the minor children aged 3 and 2 will be denied the love, affection and care of the father and grandparents. It is a very shocking circumstance.

5.If the provisions of the POCSO Act and the Prohibition of Child Marriage Act, 2006, are mechanically applied, for no fault of the minor children, who are aged 3 and 2, they had to live a cruel life and face cruelty of the society. Therefore, this is a peculiar circumstance. The involvement of the father of A1 and the parents of the victim in this crime cannot at all be denied. At the same time, it has resulted in more complication. Therefore, exercising the inherent power of the High Court under Section 482 of Cr.P.C., top most priority is given to the minor children for the mental and physical health and future of the minor children, who are too young. Under those circumstances, the crud application of law had to be averted. It is an extraordinary circumstance. This cannot be applied as a general rule.



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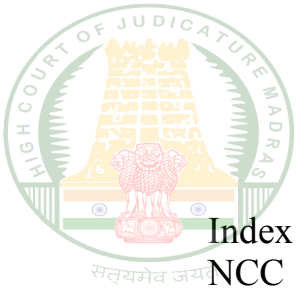
6. Considering the welfare of the minor children, who are too young and also considering the social and educational status of A1 to A4, they have to be shown some lenience. Therefore, exercising the extraordinary power under Section 482 Cr.P.C., this Court is inclined to quash the case against the Petitioners herein, in Spl.S.C.No.129 of 2023 on the file of the learned Fast Track Mahila Court, Dindigul, in the light of the judgments of this Court in (a) **2021 (1) MWN (Cr.) 252 (Vijayalakshmi and another and State and (b) 2022 (1) LW Crl. 303 (Agavai vs the State) (c) 2019 SCC OnLine Mad 18850 (Sabari @ Sabarinathan @ Sabarivasan vs the Inspector of Police and others)** and in the light of the precedent of the Hon'ble Gujarat High Court in **2021 Scc Online Guj 2961 (Ashwinibhai vs State of Gujarat)**.

In the result, the **Criminal Original Petition** is allowed. The case in Spl.S.C.No. 129 of 2023 on the file of the learned Fast Track Mahila Court, Dindigul, is quashed.

Internet : Yes/No

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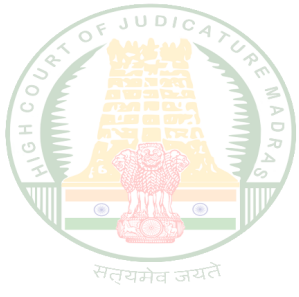
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NCC :Yes/No

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To

1.The Judicial Magistrate,  
Fast Track Mahila Court, Dindigul.

2.The Inspector of Police,  
Dindigul Taluk Police Station,  
Dindigul District.



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**SATHI KUMAR SUKUMARA KURUP, J.**

cmr

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