



IN THE HIGH COURT OF KARNATAKA AT BENGALURU

DATED THIS THE 19TH DAY OF FEBRUARY, 2024

BEFORE

THE HON'BLE MR JUSTICE HEMANT CHANDANGOUDAR

CRIMINAL PETITION NO. 13469 OF 2023 (482)

BETWEEN:

...PETITIONER

(BY SRI. ABHISHEK RAMESH AND
SRI. SEETHARAMU P., ADVOCATE)

AND:

1. THE STATE OF KARNATAKA
BY THE SUB-INSPECTOR OF POLICE,
BOMMANAHALLI POLICE STATION,
BENGALURU CITY-560068
REP. BY STATE PUBLIC PROSECUTOR,
HIGH COURT OF KARNATAKA-560001



...RESPONDENTS

(BY SRI.VINAY MAHADEVAYYA, HCGP FOR R1;
SRI. GANDAVARAPU KRISHNA REVANTH, ADV. FOR R2)

THIS CRL.P IS FILED U/S 482 CR.PC BY THE ADVOCATE FOR
THE PETITIONER PRAYING THAT THIS HONOURABLE COURT MAY BE



PLEASED TO QUASH THE CRIMINAL PROCEEDINGS PENDING AGAINST THE PETITIONER IN SPL.C.C.NO.2432/2023, AGAINST THE PETITIONER HEREIN, WHO IS ARRAIGNED AS ACCUSED FOR THE OFFENCE P/U/S 366A, 376(1) OF IPC AND 4 AND 6 OF POCSO ACT, 2012 AND SEC. 9 OF PROHIBITION OF CHILD MARRIAGE ACT, 2012 AT ANNEXURE-A, PENDING ON THE FILE OF ADDITIONAL CITY CIVIL AND SESSIONS JUDGE, FTSC-III AT BENGALURU AND ETC.

THIS PETITION, COMING ON FOR FURTHER HEARING, THIS DAY, THE COURT MADE THE FOLLOWING:

ORDER

The petitioner – accused is sought to be prosecuted for the offences punishable under Sections 366(A), 376(1) of the IPC and Sections 4 and 6 of the POCSO Act, 2012 and Section 9 of the Prohibition of Child Marriage Act, 2006.

2. The case of the prosecution is that, the petitioner – accused fully knowing that the survivor was the minor, solemnized his marriage with her and committed penetrative sexual assault.

3. The survivor and her parents were present before this Court on 20.12.2023, and filed joint affidavit stating that the marriage of the survivor with the petitioner was solemnized inadvertently, and in ignorance of law, and from the said wedlock, a male child was born on 28.11.2023. They further stated that the survivor and the newly born child are dependent on the petitioner for their livelihood. If the criminal proceedings



are allowed to continue, it would result in incarceration of the petitioner – accused which would cause more misery and agony to the survivor and her child rather than securing the ends of justice.

4. Learned HCGP for the State submitted that the survivor is aged about 16 years as of date, and the offences alleged against the petitioner are heinous and crime against the society and the same cannot be compounded.

5. The petitioner and the survivor represented by her natural guardian i.e., mother have filed a joint affidavit stating that the sexual intercourse between them and the solemnization of their marriage was a consensual one since they were in relationship. From the said wedlock, a male child was born on 01.12.2023 and the birth certificate issued to that effect by the Registrar of Birth is annexed to the joint affidavit. They have also annexed their identity proof in the form of aadhar cards. They have further stated that they would register their marriage with the registrar of marriage upon the survivor attaining the age of majority.



6. The survivor is aged 16 years as of today. The survivor and her newly born child are dependent on the petitioner for their livelihood, and there are no other means of eking livelihood. The parents of the survivor, who were present before this Court on 29.12.2023 have expressed their inability to maintain the survivor, and the child since they come from economically weaker section. The petitioner is in judicial custody and is unable to support the survivor and the child. If the criminal proceedings are allowed to continue, it would result in incarceration causing more misery and agony to the survivor and her child rather than securing the ends of justice.

7. The object of POCSO Act is to protect minors from sexual abuse and not to criminalize the consensual relationship between two adolescents who had consensual sexual intercourse without knowing the consequences. The petitioner and the survivor come from the lower socio economic segment having limited access to information and knowledge, thus depriving them about the consequences in having consensual sexual intercourse. Though having sexual intercourse consensually with the minor is an offence under the POCSO Act, however, having regard to the facts and circumstances of the



case, to secure the ends of justice, it would be appropriate to quash the impugned proceedings, otherwise, it would result in miscarriage of justice to the survivor and the child.

Accordingly, petition is allowed. The impugned proceedings in Special C.C. No.2432/2023 on the file of the Additional City Civil and Sessions Judge, FTSC-III, Bengaluru, is hereby quashed.

The petitioner to be released from judicial custody forthwith, if he is not required in any other case.

Sd/-
JUDGE

RSH / CT:ANB
List No.: 19 SI No.: 1