2025 INSC 1272

NON-REPORTABLE

IN THE SUPREME COURT OF INDIA
CRIMINAL APPELLATE JURISDICTION

CRIMINAL APPEAL NO. 679 OF 2024

K. KIRUBAKARAN ... **APPELLANT**

VS.

STATE OF TAMIL NADU ... **RESPONDENT**

J U D G M E N T

DIPANKAR DATTA, J.

The final cause of law is the welfare of society.
~ Benjamin N. Cardozo, Former Associate Justice of the Supreme Court of United States.

1. Appellant was convicted for offences punishable under section 366 of the Indian Penal Code, 1872 and section 6 of the Protection of Children from Sexual Offences Act, 2012[1] and sentenced to rigorous imprisonment for 5 years and 10 years, respectively, with fine. Aggrieved by such conviction and sentence, the appellant preferred an appeal before the High Court of Judicature at Madras. It was dismissed *vide* the impugned judgment and order dated 13th September, 2021.

[1] POCSO Act

2. During the pendency of the appeal before the High Court, marriage between the appellant and the victim of crime was solemnized in May 2021. By an order dated 6th February 2024, this Court had directed the Tamil Nadu State Legal Services Authority[2] to ascertain the well-being of the appellant's wife. Pursuant thereto, the Member Secretary of the TNSLSA interacted with the appellant's wife and has submitted a report revealing that after marriage the appellant and his wife have been blessed with a male child, who is less than one year old, and also that they are leading a happy married life.

3. Wife of the appellant has filed an affidavit before this Court stating that she is dependent upon the appellant and wishes to lead a happy, normal, and peaceful life with him and the child born in their wedlock.

4. During the course of hearing, a prayer was made on behalf of the appellant to invoke the powers of this Court under Article 142 of the Constitution of India for quashing the conviction and sentence in order to avoid disruption of the matrimonial harmony between the parties. We considered it appropriate to first hear the complainant, being the father of the victim. He has appeared before us today through the virtual mode. Answering our query, he has stated in Tamil (conveyed to us by Mr. Krishnamoorthy, learned senior counsel for the State) that he has no objection to the criminal proceedings being brought to an end.

[2] TNSLSA

5. The only question which remains to be decided is whether the proceedings should be quashed in the present case, considering that the appellant is convicted of a heinous offence.

6. We are conscious of the fact that a crime is not merely a wrong against an individual but against society as a whole. When an offence is committed, it wounds the collective conscience of the society and therefore the society, acting through its elected lawmakers, determines what would be the punishment for such an offence and how an offender should be dealt with, to deter its recurrence. The criminal law is, thus, a manifestation of the sovereign will of the society. However, the administration of such law is not divorced from the practical realities. Rendering justice demands a nuanced approach. This Court tailors its decisions to the specifics of each case: with firmness and severity wherever necessary and it is merciful when warranted. It is also in the best interest of society to bring a dispute to an end, wherever possible. We draw inspiration from Cardozo, J. to hold that the law aims to ensure not just punishment of the guilty, but also harmony and restoration of the social order.

7. With such perspective in mind, we need to proceed to balance the competing interests of justice, deterrence, and rehabilitation.

8. The founding fathers of the Constitution conferred this Court with the extraordinary power to do "complete justice" in proper cases. This constitutional power stands apart from all other powers and is intended

to avoid situations of injustice being caused by the rigid application of law.

9. Per the law made by the legislature, the appellant having been found guilty of a heinous offence, the proceedings in the present case on the basis of a compromise between the appellant and his wife cannot be quashed. But ignoring the cry of the appellant's wife for compassion and empathy will not, in our opinion, serve the ends of justice. Even the most serious offenders of law do receive justice moderated by compassion from the courts, *albeit* in appropriate cases. Given the peculiar facts and circumstances here, a balanced approach combining practicality and empathy is necessary. The appellant and the victim are not only legally married, they are also in their family way. While considering the offence committed by the appellant punishable under the POCSO Act, we have discerned that the crime was not the result of lust but love. The victim of crime herself has expressed her desire to live a peaceful and stable family life with the appellant, upon whom she is dependent, without the appellant carrying the indelible mark on his forehead of being an offender. Continuation of the criminal proceedings and the appellant's incarceration would only disrupt this familial unit and cause irreparable harm to the victim, the infant child, and the fabric of society itself.

10. We are, thus, persuaded to hold that this is a case where the law must yield to the cause of justice.

11. Accordingly, resting on the foregoing considerations, the developments subsequent to the trial, and in the interest of rendering complete justice,

we deem it appropriate to invoke our powers under Article 142 of the Constitution of India to quash the criminal proceedings against the appellant including the conviction and sentence. Ordered accordingly.

12. Also, bearing in mind the interests of the appellant's wife and child, we deem it appropriate to subject the appellant to the specific condition of not deserting his wife and child and also to maintain them for the rest of their life with dignity. If, in future, there be any default on the appellant's part and the same is brought to the notice of this Court by his wife or their child or the complainant, the consequences may not be too palatable for the appellant.

13. We make the interim order granting benefit to the appellant of exemption from surrendering absolute and discharge him from the bail bonds.

14. The appeal is, accordingly, allowed.

15. Needless to observe, this order is rendered in the unique circumstances that have unfolded before us and shall not be treated as a precedent for any other case.

.....J.
(DIPANKAR DATTA)

.....J.
(AUGUSTINE GEORGE MASIH)

NEW DELHI;
OCTOBER 28, 2025.