

**IN THE HIGH COURT OF MANIPUR
AT IMPHAL**

PIL No. 36 of 2022

Court on its own motion

... *Petitioner*

- Versus -

1. The State of Manipur, represented by the Principal Secretary (Home) Government of Manipur.
2. The Director General of Police, Manipur.
3. The Superintendent of Police, Tengnoupal District.
4. The Director (Social Welfare), Government of Manipur.
5. Manipur Commission for Protection of Child Rights, represented by its Chairperson.
6. The Deputy Commissioner, Tengnoupal, Chandel District, Manipur-795131.
7. The Child Welfare Committee (CWC), Tengnoupal, represented by its Chairperson, Chandel District, Manipur-795131.
... Respondents No. 6 and 7 are impleaded, vide Hon'ble Court's order dated 14.11.2022.
8. The Additional Chief Secretary (Health), Government of Manipur.
... impleaded as Respondent No. 8, as per order dated 21.12.2022.

... *Respondents*

B E F O R E

**HON'BLE THE ACTING CHIEF JUSTICE MR. MV MURALIDARAN
HON'BLE MR. JUSTICE A. GUNESHWAR SHARMA**

For the petitioner	:	
For the respondents	:	Mr. M. Devananda, Addl. A.G.
Date of Order	:	18.04.2023

ORDER

A. Guneshwar Sharma, J.

[1] The present PIL is taken up *suo motu* by this Court on the basis of a news item published on 11.11.2022 in the daily local newspaper (Imphal Free Press) under the caption "Minor boy raped in Tengenoupal, move for delivery of justice all in chaos". The brief fact of the case is that on 14.10.2022, a minor boy was raped by the accused and an FIR under POCSO Act was registered at Moreh Police Station and the victim was produced before the CWC, Tengenoupal and admitted in Children Home. Thereafter, local community leaders put in great effort to resolve the matter through customary laws. It is also stated that the victim was examined on 15.10.2022, at Sub-Divisional Hospital, Moreh, Tengenoupal District and the attending doctor opined that "Anal region: No mark/no injury mark present at the time of examination" and "Mouth: No injury mark present at the time of examination". The victim and the guardian refused to take medico-legal examination at the Department of Forensic Medicine, JNIMS, Porompat. After intervention and counseling by the Protection Officer, DCPU Chandel, the victim agreed to give statement and also agreed to undergo medico-legal examination. On 25.11.2022, the statement of the victim under 164 CrPC was recorded by the Judicial Magistrate, First Class, Imphal West-II. On 23.11.2022, the Medico-Legal Examination of the minor boy was conducted at the Department of Forensic Medicines, JNIMS, Porompat. In its final opinion, it is stated that there are no sign of use of force and no definite opinion can be given in regard to sexual violence. In spite of the rejection of the anticipatory bail application filed by the accused, vide order dated 11.01.2023 in CRIL.MISC.(AB) CASE No. 303 of 2022 passed by the

learned Special Judge (POCSO), Imphal West, it is learnt that the accused could not be arrested till date.

[2] Heard Mr. M. Devananda, learned Addl. A.G., Manipur, appearing on behalf of the State respondents.

[3] On 19.12.2022, Mr. M. Devananda, learned Addl. A.G., stated that a charge-sheet has already been filed in the competent Court. In order dated 21.12.2022, this Court is of the opinion that the Doctor tried to cover up the crime under POCSO Act and false medical report was made and directed the State respondents to submit a report as what action taken against the concerned Doctor. On 25.01.2023, this Court directed the State respondents to submit an action taken report and on 16.02.2023, a last opportunity was given to file the same. In pursuance to the above orders, respondent No. 6 filed a detail affidavit furnishing action taken report. In the affidavit it is stated that the Director of Health Services, Manipur issued a show-cause Notice dated 20.02.2023 thereby directing the Medical Officer in charge, Moreh Hospital and treating Medical Officer, Moreh Hospital, to give their statements on 21.02.2023. The Medical Officer, Sub-District Hospital, Moreh, stated that on 15.10.2022 at about 9.40 a.m., he examined the victim alleging complaint of molest/rape and entered in the Medico Legal Case (MLC) Register of SDH, Moreh and informed Moreh Police Station for necessary action. On general and local examination of oral cavity and anal region, no mark of injury was detected at the time of examination. Keeping in view of the need of internal and further examination, the doctor referred the boy to Forensic Department at higher centre. He treated the victim instantly by giving I.V. fluid, Antibiotic, Analgesic (Pain Killer) and Antacid and kept under observation at the hospital. It is also stated that after thorough examination of

the victim with the available equipment and facilities, the doctor could not rule out sexual assault and therefore, the victim was referred to the Forensic Department of Higher Centre for further examination and opinion. It is stated in the affidavit that the victim was examined at the Department of Forensic Medicine, JNIMS, Porompat, Imphal East, and submitted a Medico-Legal Examination report dated 23.11.2022 stating that there was no signs of use of force, and as regard sexual violence, it opined that no definite opinion can be given in regard to it. It is also stated that in order to avoid such situation in future, the Director of Health Service, Manipur, issued a Memorandum dated 25.03.2023. A comprehensive guidelines for medical examination of the victim in terms of Section 27 of the POCSO Act, and Rule 5 of the POCSO Rule, 2012, was issued and directed to all Medical Superintendents of District Hospitals and Sub District Hospital/Medical Officers i/c of UHC/CHC/PHC to strictly comply with the provisions of the POCSO Act, 2012 and Rules, 2012. It may be noted that POCSO Rules, 2020 has been notified repealing the protection of POCSO Rules, 2012 and necessary amendment in the memorandum dated 25.03.2023 be incorporated in terms of POCSO Rules, 2020.

[4] Mr. M. Devananda, learned Addl. A.G., submits that necessary guidelines has been issued for medical examination of a minor victim of the sexual assault under POCSO Act. He also clarified that on perusal of the Medical Examination Report submitted by the Medical Officer, Moreh and Department of Forensic Medicine, JNIMS, there has not been much difference in the findings and prays that PIL may be closed.

[5] This Court had perused the additional affidavit submitted by respondent No. 6 and especially memorandum dated 25.03.2023 issued by the Director, Health Services, Manipur, directing all the Medical Officers to comply with the provisions of

the POCSO Act and Rules while conducting the medical examination of the minor victim. This memorandum will take care of the lapses during medical examination of the victim. Since another PIL is pending with regard to the implementation of the POCSO Act, this Court thinks it appropriate to close the present petition as the State authority have issued a comprehensive guidelines with respect to the medical examination of the victim. Accordingly, the PIL is closed.

[6] This Court is not happy with the manner in which the case is investigated. In spite of rejection of the anticipatory bail application by the learned Special Judge(POCSO), Imphal West on 11.01.2023 in CRIL.MISC.(AB) CASE No. 303 of 2022, the accused could not be arrested. Without securing the presence of the accused before the Court, mere filing of charge-sheet will not serve any fruitful purpose during the course of the trial.

[7] The Director General of Police is to issue necessary instructions to the district police to do the needful in F.I.R. Case No. 58(10) 2022 MRH-PS u/s 4 POCSO Act.

[8] With the above observations, the *suo motu* PIL is closed.

[9] No order as to costs.

[10] Send a copy of this order to the Chief Secretary, Manipur and the Director General of Police, Manipur, for information and necessary action.

JUDGE

ACTING CHIEF JUSTICE