



WEB COPY

BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT
DATED:05.07.2017

CORAM

THE HON'BLE MR.JUSTICE V.BHARATHIDASAN

CrI.R.C(MD).No.509 of 2017

and

C.M.P.(MD).Nos.5670 and 5671 of 2017

Ramkumar

... Petitioner

-Vs-

1.State rep. by

The Inspector of Police,
Kovilpatti West Police Station
In Cr.No.59 of 2012.
Thoothukudi District.

.... 1st Respondent/Complainant

2.Rajalakshmi

3.Ponraj

... Respondents 2 & 3/
Intervenors

Prayer : Criminal Revision Case is filed under Section 397 r/w 401 of the Code of Criminal Procedure to set aside the order of dismissal of the discharge petition dated 28.06.2017 in Cr.M.P.No.96 of 2015 in Special C.C.No.2 of 2015 on the file of the learned Mahila Judge, Mahalir Neethi Mantram, Fast Track Court, Thoothukudi.

For Petitioner

: Mr.V.Sasikumar

For Respondent-1

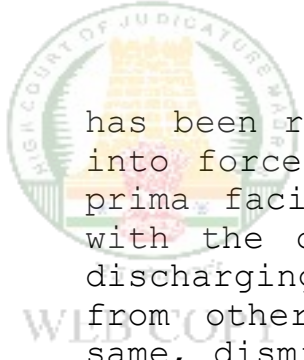
: Mr.C.Mayilvahana Rajendran

Addl. Public Prosecutor

O R D E R

Challenging the order dismissing the discharge petition filed by the petitioner, the present revision has been filed.

2.The learned counsel appearing for the petitioner submitted that the petitioner herein is second accused in C.C.No.2 of 2015 on the file of the Mahalir Neethimandram, Fast Track Mahila Court, Thoothukudi. He has been charged with for the offences punishable under Sections 376(g), 328 and 506(ii) I.P.C and Sections 4 and 14 of the Protection of Children from Sexual Offences Act, 2012 (POCSO). The learned counsel further submitted that POSCO Act came into force only on 14.11.2012. The occurrence said to have been taken place between 2009 and 2012 and the crime



has been registered on 28.02.2012, i.e long prior to the Act came into force. According to him, from the available material, no prima facie case is made out against the petitioner to proceed with the case. Hence, the petitioner has filed a petition for discharging him from the offences under the POCSO Act and also from other charges. The trial court, without considering the same, dismissed the said petition.

3.The learned counsel appearing for the petitioner further submitted that the prosecution mainly relied upon some electronic evidence. Without following the procedures contemplated under Section 65(b) of the Indian Evidence Act, electronic evidence is not admissible in law.

4.The learned Additional Public Prosecutor appearing for the respondent fairly conceded that the POCSO Act came into force on 14.11.2012 and occurrence is said to have been taken place between 2009 and 2012 and the crime was registered on 28.02.2012. Since the Act is prospective, the petitioner has been wrongly charged under the POCSO Act.

5.Considering the fact that the occurrence is said to have been happened long prior to the Act came into force, I am of the view that the petitioner cannot be charged under Sections 4 and 14 of the Protection of Children from Sexual Offences Act, 2012. Hence, the petitioner is discharged from the said charge. So far as the other offences are concerned, I have gone through the materials. In respect of the other offences, there are sufficient materials available to proceed against the petitioner. Hence, this petition is dismissed in respect of the other offences. The argument of the petitioner in respect of electronic evidence cannot be considered at this stage.

6.In the result, this Criminal Revision Case is partly allowed. The charge against the petitioner under Sections 4 and 14 of the POCSO Act alone is set aside. If the petitioner has any grievance, it is always open to him to raise the same at the time of trial. Consequently, connected miscellaneous petitions are closed.

Sd/-

Assistant Registrar(RTI)

/True Copy/

Sub-Assistant Registrar

To

1.The Inspector of Police, Kovilpatti West Police Station
Thoothukudi District.

2.Mahila Judge, Mahalir Neethi Mantram,
Fast Track Court, Thoothukudi.

+One cc to Mr.V.Sasikumar, Advocate, SR.No.63620

vs

<https://hccourt.gov.in/crimes/SAR1/14/7/2017>

Cr1.R.C(MD) No.509 of 2017

05/07/2017