



BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

DATED: 23.01.2018

CORAM:

WEB COPY

THE HONOURABLE MR.JUSTICE P.RAJAMANICKAM

CRL.O.P. (MD) No.940 of 2018

Bavasikkandar

... Petitioner/sole Accused

-Vs-

1. The State rep. By
The Deputy Superintendent of Police,
Theni District,
Theni.

2. The Sub-Inspector of Police,
Veerapandi Police Station,
Theni District.
(Cr.No.12 of 2018)

... Respondents/Complainant

3. Sivasambu
Head Constable,
G-3, Veerapandi Police Quarters,
Veerapandi,
Kottur,
Theni District.

... Respondent/Defacto Complainant

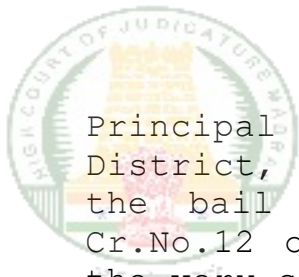
PRAYER: Criminal Original petition is filed under Section 482 of Criminal Procedure Code, to direct the learned Principal District and Sessions Court (PCR), Theni, Theni District, to accept the surrender of the petitioner and consider the bail application on merits on the date of surrender in Cr.No.12 of 2018 on the file of the second respondent Police on the very same day.

For Petitioner : Mr.M.Pitchai Muthu

For R-1 & R-2 : Mr.A.P.G.Ohm Chairma Prabhu
Govt. Advocate (Crl.Side)

O R D E R

<https://hcservices.ecourts.gov.in/hcservices/> Criminal Original petition has been filed under Section 482 of Criminal Procedure Code, to direct the learned



Principal District and Sessions Court (PCR), Theni, Theni District, to accept the surrender of the petitioner and consider the bail application on merits on the date of surrender in Cr.No.12 of 2018 on the file of the second respondent Police on the very same day.

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2.Heard both sides.

3.In this case, the second respondent has registered a case under Section 294(b) I.P.C, Section 10 of Protection of Children from Sexual Offences, Act (for short, the POCSO Act) and 3(2) (va) of the Scheduled Castes and Scheduled Tribes (Prevention of Atrocities) Act, 1989. In this context, it would be relevant to refer a decision in Reference Case No.1 of 2017, dated 28.04.2017, wherein, a Honourable Division Bench of the Madras High Court, in paragraph No.56 of the judgment has held as follows:

"56.If the act of the accused is an offence under the POCSO Act and also an offence under the SC & ST Act, the Special Court under the POCSO Act alone shall have jurisdiction to exercise all the powers including the power to remand the accused under Section 167 of the Code, to take cognizance of the offences either on a police report or on a private complaint and to try the offender. The said Special Court shall have jurisdiction to grant all the reliefs to the victim for which the victim is entitled to under the SC & ST Act."

4.In view of the aforesaid decision, the Special Court under the POCSO Act alone shall have jurisdiction to try the offences both under the POCSO Act and SC & ST Act. Further, in view of the amendments made in the Scheduled Castes and the Scheduled Tribes (Prevention of Atrocities) Act, 1989, this Court is of the view that the usual directions that were issued by this Court cannot be issued routinely in all cases. Therefore, the petitioner is directed to surrender before the Special Court under the POCSO Act (Mahila Court), Theni District, within a period of two weeks from the date of receipt of a copy of this order and on such surrender, the learned Judge, Special Court under the POCSO Act (Mahila Court), Theni District, is directed to consider the bail petition filed by the petitioner in connection with Crime No.12 of 2018, on merits and in accordance with law, after issuing notice to the defacto complainant/victim under Section 15 (A) of the SC/ST Act.

5. With the above direction, this Criminal Original Petition is disposed of.

Sd/-

Assistant Registrar(CO)



To

1. The Judge,
Special Court under the POCSO Act (Mahila Court),
Theni District.

2. The Deputy Superintendent of Police,
Theni District,
Theni.

3. The Sub-Inspector of Police,
Veerapandi Police Station,
Theni District.

4. The Additional Public Prosecutor,
Madurai Bench of Madras High Court, Madurai.

+ 1 cc TO Mr.M.Pitchaimuthu , Advocate in SR No. 43834

vs

AE/KKR/SAR1/25.01.2018/3P/6C

CRL.O.P. (MD) No.940 of 2018
23.01.2018