

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 08.05.2019

CORAM:

THE HON'BLE MR.JUSTICE N. ANAND VENKATESH

Crl.O.P. No.12270 of 2019

and

Crl.M.P. Nos.6421 & 6423 of 2019

Natarajan ... Petitioner /Accused
...Vs...

Inspector of Police,
W-26, All Women P.S.,
Ashok Nagar,
Chennai.

... Respondent /Complainant

PRAYER: Criminal Original Petition filed under Section 482 of the Criminal Procedure Code, to alter the charges framed by the Mahila Court, Chennai against the accused for punishable offence in Section 8 of POCSO Act instead of Section 6 of the POCSO Act.

For Petitioner : Mr.A.Selvendran

For Respondent : Ms.M.Prabhavathi,
Additional Public Prosecutor

O R D E R

This petition has been filed seeking for the relief of alteration of charges in the proceedings pending against the petitioner before the Mahila Court, Chennai in SC. No.244 of 2018.

2. It is seen from records that the respondent police has filed a final report against the petitioner for an offence under Section 6 of POCSO Act, 2012. The petitioner has filed a discharge petition before the Court below on the ground that no case has been made out against the petitioner for an offence under Section 6 of the POCSO Act, 2012. The discharge petition was considered by the Mahila Court in Crl.M.P. No.14989 of 2018 and the Court by an order dated 02.11.2018, dismissed the discharge petition after finding that there are sufficient materials to frame charges against the petitioner under Section 6 of POCSO Act, 2012. Admittedly, this order has not been challenged by the petitioner and this order has become final.

3. While so, the present petition has been filed before this Court seeking for a direction to the Court below to alter the charges from Section 6 of the POCSO Act, 2012 to Section 8 of the POCSO Act, 2012. This prayer has been made on the ground that even as per the 164 statement recorded by the Magistrate, only an offence under Section 8 of the POCSO Act, 2012 is attracted.

4. A petition of this nature cannot be entertained by this Court in exercise of its jurisdiction under Section 482 of Cr.P.C. Section 216 of Cr.P.C. gives very wide powers to the trial Court to alter the charges at any time before the judgment is pronounced. This exercise shall be done by the trial Court based on the evidence and the materials available on record. This Court at this stage cannot give any direction to the trial court to alter the charges.

5. If the trial Court based on the evidence and the materials available before it comes to the conclusion that only an offence under section 8 of the POSCO Act, 2012 is made out, it is well within the powers of the trial Court to alter the charges at any time during the pendency of the trial. In view of the above, the relief as claimed by the petitioner cannot be granted by this Court and the trial Court shall proceed further with the trial and take an appropriate decision regarding alteration of charges based on the evidence adduced at the time of trial and exercise its jurisdiction under Section 216 of Cr.P.C.

6. The Criminal Original Petition is disposed of accordingly. Consequently, connected miscellaneous petitions are closed.

Sd/-

Assistant Registrar

//True Copy// सत्यमेव जयते

Sub Assistant Registrar

rkp

To

1. The Inspector of Police,
W-26, All Women P.S.,
Ashok Nagar,
Chennai.

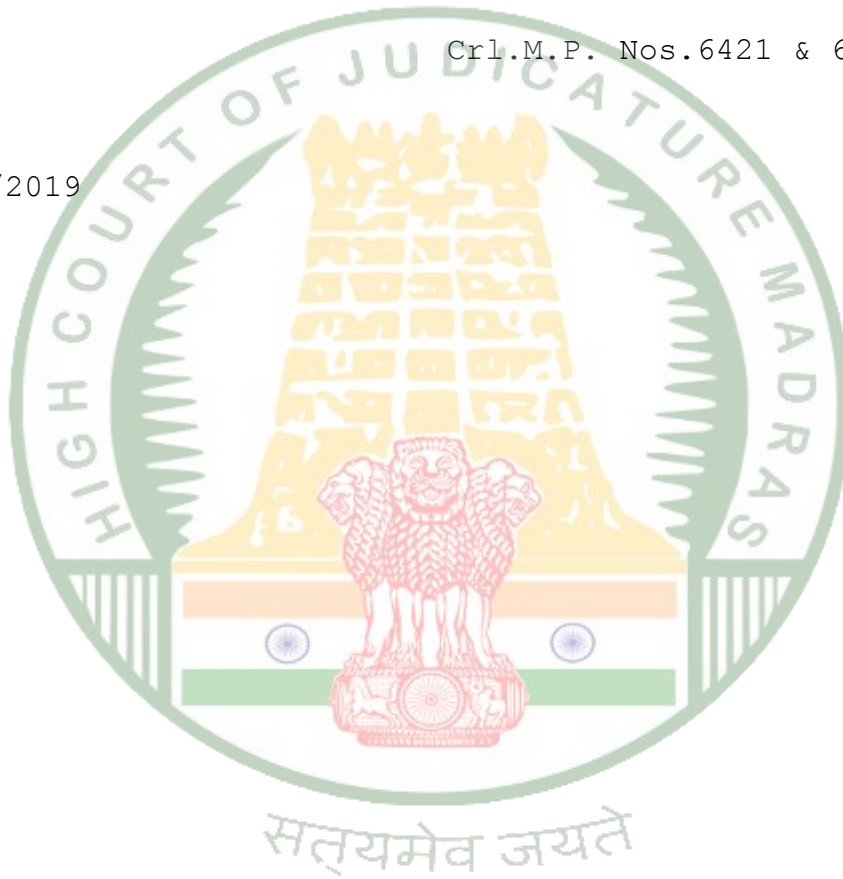
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2.The Public Prosecutor,
High Court, Madras.

+1cc to Mr.A.Selvendran, Advocate Sr.43467

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and
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srg 10/05/2019



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