

THE HON'BLE Dr. JUSTICE SHAMEEM AKTHER

WRIT PETITION No.8493 OF 2019

ORDER:

This Writ Petition, under Article 226 of the Constitution of India, is filed seeking to declare the inaction of respondent No.3 in including Sections 354A and 509 I.P.C. and the provisions under the Protection of Children from Sexual Offences Act, 2012 (for short, 'POCSO Act'), apart from Sections 354D and 506 I.P.C., in Crime No.62 of 2017 of Dammamet Police Station, Kothagudem District, registered against respondent No.4, as illegal and arbitrary and consequently, to direct respondent No.3 to include Sections 354A and 509 I.P.C. and the provisions under POCSO Act in the subject crime.

2. Heard learned counsel for the petitioner and the learned Government Pleader for Home, appearing for respondent Nos.1 to 3 and perused the record.

3. Learned counsel for the petitioner would contend that though there are specific recitals in the report, dated 29.03.2017, of the petitioner, the Station House Officer concerned has not registered the subject F.I.R. under Sections 354A and 509 I.P.C. as well as under the different provisions of POCSO Act. As per the F.I.R., dated 29.03.2017, respondent No.4/accused is being investigated for the offences punishable under Sections 354D and 506 I.P.C. It is appropriate to state that as per the report as well as in the course of investigation, if it is made out that the allegations made against respondent

No.4/accused constitute the offences punishable under Sections 354A and 509 I.P.C. and the provisions under POCSO Act, the Investigating Officer can file an alteration memo. It is the case of the petitioner that the age of the victim is below 18 years and as such, the Investigating Officer has to include the provisions under POCSO Act in the subject crime. It is submitted by the learned Government Pleader for Home that the appropriate age certificate of the victim is not placed before the Station House Officer concerned to register the case under the provisions of POCSO Act. In such an event, the petitioner, being father of the victim, is entitled to furnish the material documents relating to the age etc., of the victim. Under these circumstances, no direction is required to be given by this Court to the police concerned to include Sections 354A and 509 I.P.C. and the provisions under POCSO Act in the subject crime.

4. With the above observations, the Writ Petition is disposed of at the stage of admission.

Miscellaneous Petitions, if any, pending in this Writ Petition shall stand closed. There shall be no order as to costs.

Dr. SHAMEEM AKTHER, J

April 23, 2019.
MD