

IN THE HIGH COURT OF JUDICATURE AT MADRAS

RESERVED ON : 20.07.2020

PRONOUNCED ON : 24.07.2020

CORAM:

THE HONOURABLE Mr.JUSTICE P.N.PRAKASH

Crl.R.C.No.506 of 2020

Nicky Phili @ Lebich Philip ...Petitioner/Accused

Vs.

State represented by
The Inspector of Police,
All Women Police Station,
Tiruvannamalai District.
(Crime No.24 of 2019)

...Respondent/Complainant

Criminal Revision filed under Section 397 r/w 401 Cr.P.C.,
to set aside the order dated 04.05.2020 passed in Crl.M.P.No.185
of 2020 in Crime No.24 of 2019 on the file of the Sessions
Court, Special Court for cases under the Protection of Children
from Sexual Offences Act, 2012 (for brevity "the POCSO Act"),
Thiruvannamalai.

For Petitioner : Mr.P.K.Ganesh

For Respondent : Mr.K.Madhan
Government Advocate
(Crl.Side)

सत्यमेव जयते
O R D E R

This case is taken up through video conferencing.

2. This criminal revision has been filed seeking to set
aside the order dated 04.05.2020 passed in Crl.M.P.No.185 of
2020 in Crime No.24 of 2019 on the file of the Sessions Court,
Special Court for cases under the Protection of Children from
Sexual Offences Act, 2012 (for brevity "the POCSO Act"),
Thiruvannamalai.

3. The petitioner is a Nigerian national and his passport
seems to have expired. On the complaint lodged by "X" (name not

divulged for the sake of anonymity), a sixteen year old girl, through the Child Welfare Committee, the police registered a case in Crime No.24 of 2019 against three persons including the petitioner herein for the offences under Section 376(1) IPC r/w Sections 3(a), 4, 5(1), 6 and 17 of the POCSO Act and Sections 9 and 11 of the Prohibition of Child Marriage Act, 2006.

4. "X", in her complaint, has stated that the petitioner and one Paul, taking advantage of her poverty, approached her grandmother by saying that if she marries the petitioner, he would take her abroad and give her a good life. Believing those words, the grandmother of "X" forced her into a relationship with the petitioner. When this came to the knowledge of the aunt of "X", she sought the help of the child line, rescued "X" and approached the police for help. Only under these circumstances, the FIR was registered and the petitioner was arrested by the police and remanded to judicial custody on 26.12.2019. Since the investigation was not completed within 90 days, the petitioner was released on statutory bail under Section 167 (2) Cr.P.C. in CrI.M.P.No.185 of 2020 on 30.04.2020 by the Sessions Court, Special Court for cases under the POCSO Act, Thiruvannamalai. After the orders were passed, the Investigating Officer brought to the notice of the Sessions Court that the petitioner is a foreign national and his passport having expired, his very stay in India is illegal and hence, he cannot enjoy the privilege of remaining at large in India. Accepting the submission, the trial Court, by order dated 04.05.2020, kept the bail order in abeyance.

5. Challenging the order dated 04.05.2020 in CrI.M.P.No.185 of 2020, the petitioner has filed the present criminal revision petition.

6. Heard Mr.P.K.Ganesh, learned counsel for the petitioner and Mr.K.Madhan, learned Government Advocate (CrI.Side) for the respondent/police.

7. The learned counsel for the petitioner fairly brought to the notice of this Court the subsequent order dated 24.06.2020 passed by the trial Court, wherein, the order granting bail was not altered and a further direction was given to lodge the petitioner in the special camp at Trichy under the Foreigners Act, 1946.

8. This Court does not find any infirmity in the order passed by the trial Court warranting interference, inasmuch, as a foreign national, whose passport and visa have expired, has to be lodged in the special camp at Trichy and cannot be allowed to be at large. Detention in the special camp is not detention in the prison.

As a result, this criminal revision petition is dismissed as being devoid of merits.

Sd/-
Assistant Registrar(CS III)

//True Copy//

Sub Assistant Registrar

nsd

To

1. The Sessions Judge,
Special Court for cases under the POCSO Act,
Thiruvannamalai.
2. The Inspector of Police,
All Women Police Station,
Tiruvannamalai District.
3. The Public Prosecutor,
Madras High Court,
Chennai - 600 104.
4. The Section Officer,
Criminal Section,
High Court, Madras.

Crl.R.C.No.506 of 2020

AK (CO)
KKV/05/08/2020

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