

IN THE HIGH COURT OF JUDICATURE AT MADRAS

Dated : 05.05.2021

CORAM :

THE HON'BLE Mr.JUSTICE G.R.SWAMINATHAN

Crl.O.P.No.7796 of 2021
and Crl.M.P.No.5163 of 2021

P.Santhosh Premkumar

... Petitioner

Vs.

The State through
Inspector of Police,
All Women Police Station,
Pulianthope,
Chennai 600 012.

... Respondent

PRAYER: Criminal Original Petition is filed under Section 439 of Criminal Procedure Code to call for the records relating to the order dated 08.04.2021 in Crl.M.P.No.315 of 2021 in S.C.No.23 of 2021 on the file of Special Court for Exclusive Trial of Cases in S.C.No.23 of 2021 on the file of the Special Court for Exclusive Trial of Cases under POCSO Act, Chennai and set aside the same and pass such other orders as this Court may deem fit and proper in the circumstances of the case.

For Petitioner : Mr.B.Kumar, Senior Counsel
for Mr.S.Conscious Ilango

For Respondent : Ms.Sharatha,
Government Advocate (Crl.Side)

For Intervenor : Mr.Sharath Chandran

O R D E R

(The case has been heard through video conference)

Heard Mr.B.Kumar, learned Senior Counsel for Mr.S.Conscious Ilango, learned counsel appearing for the petitioner and Mr.Sharath Chandran, learned counsel appearing for the defacto complainant / intervenor and Ms.Sharatha, learned Government Advocate appearing for the respondent.

2. The petitioner is facing trial in S.C.No.23 of 202, on the file of the Special Court for Exclusive Trial of Cases Under POCSO Act, Chennai. The petitioner took out a petition under Section 91 of Cr.P.C, seeking production of the petitioner mentioned documents. The petitioner's stand is that he had already taken out Discharge Petition and that those

documents are necessary to advance his case in the discharge petition.

3. The learned Trial Judge, by the impugned order dated 08.04.2021, stated that at the stage of discharge, these documents cannot be looked into and in that view of the matter, dismissed the petition filed by the petitioner herein. Challenging the same, this Original Petition has been filed.

4. The learned counsel appearing for the intervenor would submit that already a direction has been issued for speedy conclusion of the trial and he alleges that the petitioner is adopting dragging on techniques.

5. It was indicated to the learned Senior Counsel that the documents in question cannot be looked into at the stage of discharge and that the Court is willing to protect the petitioner's rights, provided the petitioner withdraws the Discharge Petition and he is ready to get along with the Trial.

6. The learned Senior Counsel, on instructions, would state that the petitioner would not press the discharge petition and the said submission made by the learned Senior Counsel, on instructions, is recorded.

7. It cannot be disputed that the accused is entitled to file the petition for production of the documents in question. Of course, the learned counsel for intervenor as well as the learned Government Advocate (Criminal Side) would submit that the documents in question do not have any relevance to the case on hand.

8. I am unable to appreciate the objections for the reason that it is for the petitioner to show the relevance of the petitioner mentioned documents. The defense of the accused cannot be decided by the respondent. It is for the petitioner to take a call in this matter.

9. The documents 1 and 2 are the complaints made by the defacto complainant to the police authorities, the 3rd document is the FIR, the 4th documents is the Postmortem Report of the petitioner's wife and the 5th documents are the medical reports and summoning these documents cannot be difficult at all. Therefore, the respondent is directed to secure the documents in question and make the same available before the Trial Court. The petitioner can of course obtain certified copies of the documents from the Trial Court and the trial against the petitioner will commence only after the petitioner mentioned documents are received by the Trial Court and made available to the petitioner.

10. This Criminal Original Petition is disposed of with the above directions. Consequently connected miscellaneous petition is closed.

s/d-
Vacation Officer/
Assistant Registrar

True Copy

Sub-Assistant Registrar

sk

To

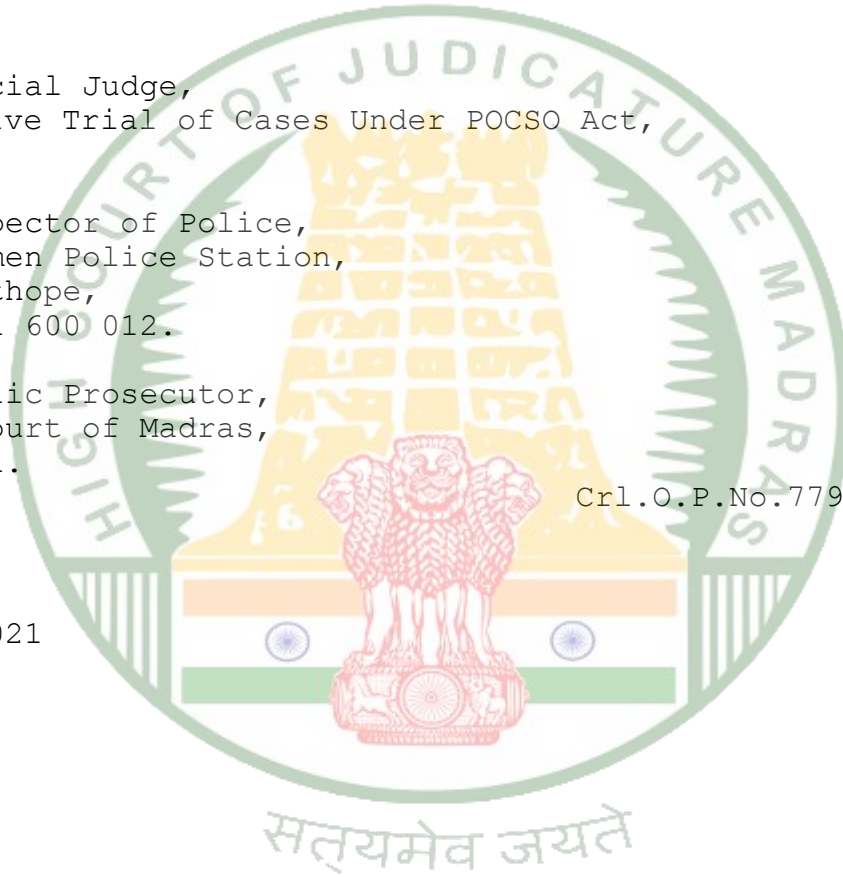
1.The Special Judge,
Exclusive Trial of Cases Under POCSO Act,
Chennai.

2.The Inspector of Police,
All Women Police Station,
Pulianthope,
Chennai 600 012.

3.The Public Prosecutor,
High Court of Madras,
Chennai.

Cr1.O.P.No.7796 of 2021

AJS (CO)
EU 11.5.2021



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