



IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 07.12.2021

CORAM:

THE HON'BLE MR.JUSTICE M.NIRMAL KUMAR

CRL.O.P.No.23835 of 2021 and
CRL.M.P.No.13121 of 2021

Shiva Sankaran @ Shiva Sankar Baba

...Petitioner

Versus

State represented by,
Inspector of Police,
CBCID, Metro Wing-II,
Chennai.
(Crime No.10 of 2021).

...Respondent

PRAYER: Criminal Original Petition filed under Section 482 of the Code of Criminal Procedure, to call for the records and set aside the order passed in Crl.M.P.No.1134 of 2021, dt:4-12-2021 by the Sessions Judge (Exclusively for POCSO Act), Chengalpattu.

For Petitioner : Mr.R.Vijayakumar

For Respondent : Mr.E.Raj Thilak,
Additional Public Prosecutor

ORDER

This Criminal Original Petition has been filed to set aside the order, dated 04.12.2021, made in Crl.M.P.No.1134 of 2021 passed by the learned Sessions Judge, Special Court for Exclusive trial of cases under the Protection of Children from Sexual Offence Act, 2021, Chengalpet (trial Court).

2.The respondent Police has filed a petition before the trial Court in Crl.M.P.No.1134 of 2021, under Section 93 Cr.P.C., to break open the premises and issue a search warrant to conduct search in the following places:-

"1.Siva Sankar Baba's Lounge in the Sree Ramarajiya Campus, Kelambakkam.

2.House premises of Karuna @ Karunambikai & T.S.Ravi Kumar S/o.Selvaraj, G1, Palani Garden, Vandalur Road, Kelambakkam.

3.Santhanakrishnan S/o.Varadhachari, D1 Palani Garden, Vandalur Road, Kelambakkam.



petitioner proposed to file a protest petition to object the return of the petition in CrI.M.P.No.1109 of 2021 filed by the respondent Police. The trial Court failed to take into consideration the protest petition of the petitioner. Thereafter, the respondent Police again filed a petition in CrI.M.P.No.1134 of 2021 under Section 93 Cr.P.C., to break open the premises and sought issuance of search warrant to conduct search in the above said premises. In CrI.M.P.No.1134 of 2021, nothing disclosed about the earlier search conducted on 29.11.2021 and no specific reasons given for break open and to conduct search and what are the documents and materials to be seized.

6.The learned counsel for the petitioner further submitted that in the FIR in Crime No.10 of 2021, there is no whisper about any concealment or segregation of any documents. Earlier, a case in Crime Nos.1 & 3 of 2021 have been registered by the Inspector of Police, CB-CID Police, Kancheepuram against Sivasankar Baba, Karuna, Janaki Srinivasan, Deepa @ Deepa Venkatrama. In Crime No.3 of 2021, during the months of January and August 2021, most of the accused were granted Anticipatory Bail with condition to appear before the concerned Police. The accused have appeared and cooperated with the investigation. The Deputy Superintendent of Police, CB-CID, Kancheepuram has brought the petitioner on 29.06.2021 to his lounge in Crime No.1 of 2021 and the Police have opened the lounge, seized certain materials and documents and search list was prepared by Mr.Gunavarman, Deputy Superintendent of Police, CB-CID, Kancheepuram. On completion of investigation, three charge sheets were filed before the concerned Court and the same were taken on file as Special S.C.Nos.69 to 71 of 2021. Thus, the petitioner's lounge, office premises and other places including institutions were already searched, documents and materials were seized. This being so, the respondent Police have no reason to file a fresh petition to conduct search in the petitioner's premises again. Without considering the objections of the petitioner and the respondent Police not giving any proper reason for conducting search, the trial Court authorized and permitted the respondent Police to enter the above said premises from 06.00 a.m., to 06.00 p.m., on 08.12.2021 to conduct search, which is not proper. Hence, he prayed for setting aside the order of the trial Court, dated 08.12.2021 in CrI.M.P.No.1134 of 2021.

7.The learned Additional Public Prosecutor appearing for the respondent Police submitted that in Crime No.10 of 2021, the petitioner Siva Sankaran @ Siva Shankar Baba is A1, who is the founder of Sushil Hari International School and Ramarajiya Trust, the Computer Teacher is A2 and husband of A2 is one of the trustee. During the course of investigation, on 10.11.2021,



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the respondent Police had gone to the scene of occurrence along with the revenue officials found some of the places locked by the accused through electronic device. The device could be operated only through finger print. Thereafter, A2's house was attempted to be searched, but she was not available in her house and she was found absconding. On intimation to the trial Court on 29.11.2021, the house search was conducted in Palani Garden, Rainbow Colony, Krishna Nagar in Ramarajiya Trust Premises and other places at Thaiyur, Kanathur and Adhambakkam. During search, it revealed that most of the places/premises were being purposely locked, the inmates and trustees of Ramarajiya Trust are acting on the advice and direction of the petitioner, purposefully not allowing the respondent Police to carry on with the investigation. Hence, it is imperative to break open the said premises and conduct search in Ramarajiya Campus in Sushil Hari International Residential School, Kelambakkam and other places mentioned above.

8.The learned Additional Public Prosecutor further submitted that the incriminating documents and relevant materials pertaining to this case are segregated and locked in the above said premises. To recover the same, search warrant is necessary to search the places by the Police officer and to have free ingress and to break open any outer or inner door of the place where the ingress is obstructed and denied. The trial Court considering all these aspects, had authorized and issued search warrant to the respondent Police, by order, dated 08.12.2021 in CrI.M.P.No.1134 of 2021. The order of the trial Court, 08.12.2021 is a detailed one, which need no interference.

9.This Court considered the rival submissions and perused the materials available on record.

10.Earlier, the respondent Police in connection with Crime No.10 of 2021 had visited the scene of occurrence and other places on 10.11.2021 along with the revenue officials, found many places locked including with electronic lock with finger print operation. The respondent Police have filed a petition before the trial Court seeking search warrant in CrI.M.P.No.1109 of 2021 on 29.11.2021. Since the learned Sessions Judge, Special Court for Exclusive trial of cases under the Protection of Children from Sexual Offence Act, 2021, Chengalpet (trial Court) was on leave for two days (29.11.2021 and 30.11.2021), the petition was listed before the learned Sessions Judge, Mahila Court, Chengalpet (additional charge). Since the learned Sessions Judge, Mahila Court, Chengalpet was holding additional charge, posted the petition to 01.12.2021. The respondent Police sensing further delay in obtaining the search warrant would tantamount to loss of evidence and documents, had visited the scene of occurrence, conducted search and seized certain



documents following Section 165 Cr.P.C. During search, the respondent Police found several places locked wantonly.

11. It is not in dispute that the learned counsel for the petitioner produced the search list served to the inmates. Thereafter, the purpose of CrI.M.P.No.1109 of 2021 no longer existed and it was not pressed. Another petition in CrI.M.P.No.1134 of 2021 was filed to conduct search on the said locked premises. The trial Court taking into consideration the facts and circumstances of the case and the objections of the petitioner, had authorized the respondent Police to conduct search and break open the lock in the said premises and fixed the date and time for conducting search between 06.00 a.m., and 06.00 p.m., on 08.12.2021 to clear the apprehension of the petitioner that some incriminating documents would be implanted in the guise of search. The entire search operations directed to be videographed and the same to be produced before the trial Court is also recorded in the order, dated 08.12.2021.

12. In view of the above, this Court does not find any illegality or infirmity or perversity in the order passed by the learned Sessions Judge, Special Court for Exclusive trial of cases under the Protection of Children from Sexual Offence Act, 2021, Chengalpet (trial Court) in CrI.M.P.No.1134 of 2021, dated 08.12.2021 and the same is confirmed by this Court. Accordingly, this Criminal Original Petition stands dismissed. Consequently, the connected Criminal Miscellaneous Petition is closed.

13. In addition to the order of the trial Court, dated 08.12.2021, the respondent Police to follow Section 100 of Cr.P.C., while conducting the search that the respondent Police can use force to break open the lock in case of free ingress and access are denied. The entire search to be conducted in the said premises in the presence of the independent witnesses. The inmates to be present if they are willing and the copy of the search list to be served to the inmates with proper acknowledgment.

s/d-
Assistant Registrar (CS-III)

True Copy

Sub-Assistant Registrar

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To

1.The Sessions Judge
Special Court for Exclusive trial of cases
under the Protection of Children from Sexual Offence Act,
2021,
Chengalpet

2.The Inspector of Police,
CBCID, Metro Wing-II,
Chennai.

3.The Public Prosecutor,
High Court, Madras.

CRL.O.P.No.23835 of 2021

RK(CO)
SP(08/12/2021)