



BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

DATED : 05.03.2021

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THE HONOURABLE MRS. JUSTICE R. THARANI

Crl. R.C.(MD)No.156 of 2021
and Crl.M.P.(MD)No.1693 of 2021

Sheik Mohamed

.. Petitioner/Petitioner/1st Accused

Vs.

State through
The Inspector of Police
Silaiman Police Station,
Madurai.

(Crime No.424 of 2016)

.. Respondent/Respondent/Complainant

Prayer : This Revision Case filed under Sections 397 and 401 of Cr.P.C., to call for the records the order passed by the Sessions Judge, Special Court for Exclusive Trial Cases of under POCSO Court, Madurai, in Cr.M.P.No.490 of 2019, in Spl.S.C.No.185 of 2018 and to set aside the order, dated 11.02.2020 passed by the Sessions Judge, Special Court for Exclusive Trial Cases of under POCSO Court, Madurai,

For Petitioner : Mr.M.A.Jinnah

For Respondent : Mrs.S.Bharathi
Government Advocate

ORDER

This revision has been filed to set aside the order passed by the Sessions Judge, Special Court for Exclusive Trial Cases of under POCSO Court, Madurai, in Cr.M.P.No.490 of 2019, in Spl.S.C.No.185 of 2018, dated 11.02.2020.

2.A case was registered against the petitioner in Crime No.424 of 2016 by the respondent police and the same was taken on file as Spl.S.C.No.185 of 2018, on the file of the Sessions Judge, Special Court for Exclusive Trial Cases of under POCSO Court, Madurai. The petitioner filed a petition in Cr.M.P.No.490 of 2019, for discharge. That petition was dismissed by the trial Court. Against which, the petitioner preferred this Revision.



3.On the side of the petitioner, it is stated that the allegation against the petitioner is that he took away the daughter of the defacto complainant to Tirunelveli. In the 161 Cr.P.C. statement itself, no offence is made out under Sections 3 and 4 of POCSO Act. There is no sexual assault committed on the minor children. Only on an imaginary ground, the case was filed against the petitioner. The ingredients under Section 29 of POCSO Act was not available. The presumption under the POCSO Act is available only if a *prima facie* case is made out and prayed the petitioner to be discharged from the charges.

4.On the side of the respondent, it is stated that the victim girl / Swathi has given a statement that the petitioner took her to Tirunelveli on promising to marry her. The evidence of the Doctor reveals that the victim was subjected to intercourse and that the *prima facie* case under Section 3 of POCSO Act is available. The petitioner took away the victim girl on 01.10.2016 and that only after he came know that the police are searching them, the girl was returned on 04.10.2016. The victim girl was made to stay with the accused in the house of his uncle from 01.10.2016 till 04.10.2016. 164 Statement of the victim reveals that the petitioner threatened the victim that he will commit suicide and prayed the petition to be dismissed.

5.The fact of the case reveals that the petitioner has taken away the victim to his uncle's house and she was retained there from 01.10.2016 till 04.10.2016. This reveals a *prima facie* case made out against the petitioner, which require a detailed enquiry.

6.In the above circumstances, there is nothing sufficient enough to interfere in the order of the lower Court. Hence, this Criminal Revision Case is dismissed. Consequently, the connected Miscellaneous Petition is closed.

Sd/-

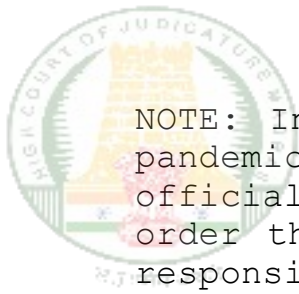
Assistant Registrar (CS-I)

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/ /2021

Sub Assistant Registrar (CS)

Ls



NOTE: In view of the present lock down owing to COVID-19 pandemic, a web copy of the order may be utilized for official purposes, but, ensuring that the copy of the order that is presented is the correct copy, shall be the responsibility of the advocate/litigant concerned.

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To

- 1.The Sessions Judge,
Special Court for Exclusive Trial Cases of under POCSO Court,
Madurai,
- 2.The Inspector of Police
Silaiman Police Station,
Madurai.
3. The Additional Public Prosecutor,
Madurai Bench of Madras High Court,
Madurai.

Copy to

The Section Officer, Criminal Section(Records)-2 copies
Madurai Bench of Madras High Court, Madurai.

Crl. R.C.(MD)No.156 of 2021
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KM (24.03.2021) 3P 6C