



BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

DATED : 23.12.2021

CORAM

THE HONOURABLE MRS. JUSTICE R. THARANI

Crl. R.C.(MD)No.968 of 2021

and

Crl.M.P.(MD)No.11789 of 2021

WEB COPY

M.Syed Malik

.. Petitioner/Sole Accused

Vs.

The Inspector of Police,
Thilagar Thidal Police Station,
Madurai District.

Cr.No. 24 of 2020.

.. Respondent/Complainant

Prayer : This Revision Case is filed under Sections 397 and 401 of Cr.P.C., to call for the records pertaining in Spl.SC.No.78 of 2019 on the file of the Special Sessions Judge, POCSO Act, Madurai framing the Charge U/s.9(m) and 10 of the POCSO Act and set aside the order dated 16.4.2021.

For Petitioner : Mr.J.Mohamed Selvam

For Respondent : Mrs.M.Aasha

Government Advocate

ORDER

This Criminal Revision has been filed to set aside the order, dated 16.4.2021, made in Spl.SC.No.78 of 2019 on the file of the Special Sessions Judge, POCSO Act, Madurai framing the Charge U/s.9(m) and 10 of the POCSO Act.

2. The trial Court framed charges under Section 9(m) r/w. Section 10 of the POCSO Act and the petitioner is not aware that the charges will be framed under the aforesaid Sections and prayed the proceedings of the trial Court to be set aside.

3. On the side of the petitioner, it is stated that the charge sheet was filed only under Sections 11 (i) and 12 of the POCSO Act and the trial Court has framed a charge under Sections 9 (M) and 10 of the POCSO Act and hence, the proceedings should be set aside.

4. On the side of the petitioner, it is further stated that the petitioner was not having the knowledge that charges will be framed under those Sections. An opportunity to exhaust the remedy under Section 227 of Cr.P.C. was not given to the petitioner and the proceedings should be quashed.



5. On the side of the respondent, it is stated that the age of the victim is below 12 years and Section 9 (m) of the POCSO Act is applicable to the present case and that the trial Court is at liberty to frame charges suitable for the offence and prayed the petition to be dismissed.

6. Only after issuing copies of the documents, the charge was framed. The trial Court has framed charge under Section 9(m) of the POCSO Act. The age of the victim is 7 years and hence, there is nothing wrong in framing charges under Section 9 (M) r/w. Section 10 of the POCSO Act. It is seen that the charge sheet was filed under Section 11 (1) and 12 of the POCSO Act. It is seen that the sections 11(i) and 12 were also applicable to the facts of the present case. It is seen that there is nothing wrong in the framing of the charges. The petitioner has denied charges and the petitioner is at liberty to defend his case. Section 11 and 12 of the POCSO Act are made out and since the child is below 7 years, the trial Court framed charges under Section 9(m) of the POCSO Act. In the above circumstances, there is nothing sufficient enough to interfere in the proceedings of the trial Court and hence, this Criminal Revision Case is dismissed. Consequently, connected Miscellaneous Petition is closed.

Sd/-

Assistant Registrar (CS I)

// True Copy //

/ /2022

Sub Assistant Registrar(CS)

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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.

To

1.The Special Sessions Judge, POCSO Act,
Madurai.

2.The Inspector of Police,
Thilagar Thidal Police Station,
Madurai District.



3.The Additional Public Prosecutor,
Madurai Bench of Madras High Court,
Madurai.

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**CrI. R.C. (MD)No.968 of 2021
23.12.2021**

NSN (CO)
SB(11.01.2022) 3P 4C