



BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

DATED : 27.01.2022

CORAM

THE HONOURABLE MR.JUSTICE G.R.SWAMINATHAN

Crl.O.P. (MD)No.1115 of 2022 and

CRL.M.P. (MD)Nos.796 & 797 of 2022

WEB COPY

Arumugam

... Petitioner / Accused 2

Vs.

1. State rep. By,
The Inspector of Police,
Couttrallam police station,
Tirunelveli District.
(Crime No.467 of 2017)

... 1st Respondent / Complainant

2. xxxx

... 2nd Respondent /
Defacto Complainant

Prayer: Criminal Original petition is filed under Section 482 of Cr.P.C, to call for the records in Special C.C.No.90 of 2020 on the file of the Special Court for POCSO Cases, Tirunelveli and quash the same against the petitioner/ accused No.2.

For Petitioner	: Mr.V.Meenakshisundaram
For R-1	: Mr.M.Sakthi Kumar, Government Advocate (Crl. Side).
For R-2	: Mr.G.Mohan Kumar
	* * *

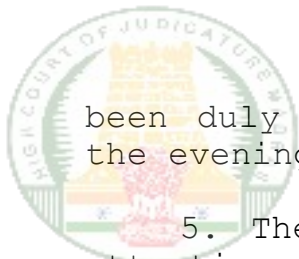
O R D E R

Heard the learned counsel on either side.

2. This criminal original petition has been filed to quash the impugned proceedings as far as the petitioner is concerned.

3. The case on hand involves the offences under Sections 10, 12 and 21(2) of the Protection of Child from Sexual Offences Act 2012. The victim was sexually harassed by the first accused. The prosecution case is that the petitioner who is the headmaster of the institution did not report the matter immediately. Therefore, he has been charged for the offence under Section 21(2) of the Act.

4. It is seen that the occurrence had taken place on 08.11.2017 in the evening hours. Even according to the victim, she reported the matter to the petitioner on 09.11.2017 at around 9.30 a.m. The petitioner was attending official work in the office of the District Education Officer, Thenkasi, from 11.00 a.m. till evening. This has



been duly confirmed by the District Education Officer himself. In the evening of 09.11.2017, the case came to be registered.

5. The learned counsel appearing for the petitioner draws my attention to the decision of the Hon'ble Chhattisgarh High Court, Bilaspur, reported in 2016 Crl.L.J. 3759 (Kamal Prasad Patade V. State of Chhattisgarh and Others). In the said Judgment, the Hon'ble Chhattisgarh High Court held that the school head must be given sufficient and reasonable time to find out the correct facts by making an enquiry at the institutional level before reporting the matter. In this case, it was further held that the prosecuting agency should be circumspect in initiating prosecution under Section 21(2) of the POSCO Act against the In-charge / Head of the Institution.

6. In the case on hand, the petitioner did not have time to look into the matter. The moment the petitioner received the complaint, he instructed the teacher concerned not to take any special class and also the victim not to attend the special class. Having correctly responded to the allegation, the petitioner had to rush to the office of the District Education Officer for attending certain official works. He did not have time to report the matter. He did not have time to verify the correctness of the allegations made by the victim student.

7. Respectfully following the ratio laid down in the aforesaid decision, I quash the impugned proceedings as far as the petitioner is concerned. The impugned prosecution of course will go on against the main accused. This criminal original petition is allowed. Consequently, connected miscellaneous petitions are closed.

Sd/-

Assistant Registrar (P&A)

// True Copy //

/ /2022

Sub Assistant Registrar(CS)

PMU

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 Judge for POCSO Cases,
Tirunelveli.

2. The Inspector of Police,
Couttrallam police station,
Tirunelveli District.

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

+1 CC to M/s.V.MEENAKSHISUNDARAM, Advocate (SR-2897[F]
dated 28/01/2022)

Crl.O.P.(MD)No.1115 of 2022
27.01.2022

SE (CO)

GC (25.02.2022) 3P 5C