



BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

DATED: 24.03.2022

CORAM:

THE HONOURABLE MR. JUSTICE **G.K. ILANTHIRAIYAN**

Crl.O.P.(MD) No.5454 of 2022

and

Crl.M.P(MD) No.3905 of 2022

Murugan

...Petitioner/Accused

Vs.

The State through
The Inspector of Police,
All Women Police Station,
Sivagangai.
(Crime No.06 of 2015)

...Respondent/Complainant

PRAYER: Criminal Original Petition filed under Section 482 Cr.P.C. praying to call for the records pertaining to the order passed in Crl.M.P No. 275 of 2021 in S.S.C No. 15 of 2015 on the file of the learned Sessions Judge, Fast Track Mahila court, Sivagangai dated 19.03.2021 and to set aside the same.

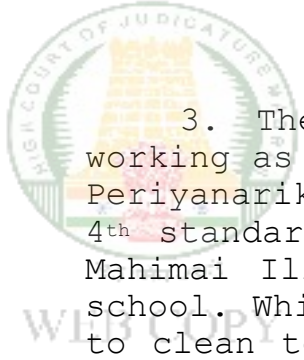
For Petitioner : Mr.K.Navaneetharaja

For Respondent : Mr.R.M.Anbunithi
Additional Public Prosecutor

ORDER

This Criminal Original Petition has been filed to call for the records pertaining to the order passed in Crl.M.P No. 275 of 2021 in S.S.C No. 15 of 2015 on the file of the learned Sessions Judge, Fast Track Mahila Court, Sivagangai, dated 19.03.2021 and to set aside the same.

2. The petitioner is the accused in Spl.S.C. No.15 of 2015 on the file of the learned Sessions Judge, Fast Track Mahila Court, Sivagangai, charged for the offences under Section 6r/w.5(f)(l)(m)(o)(p) and Section 10, r/w.9(f)(d) of Protection of Children from Sexual offences Act, 2012 r/w.3(1)(xi) and(Xii) of SC/ST(POA) Ordinance Amendment Act, 1989 under Rule 7(i) of SC/ST(POA) Rules 1995.



3. The case of the prosecution is that the petitioner was working as the Head Master in the Panchayat Union Elementary School, Periyannarikottai, Sivagangai. One of the victims, who was studying 4th standard and staying in the orphanage home called 'Jebathottam Mahimai Illam' along with her younger sister, studying in the same school. While being so, on 06.04.2015, the accused had directed them to clean toilet and garden area. When the first accused was inside the toilet, the petitioner followed her and alleged to have committed rape on her. At that time, some one pelted stone on the accused's head and then, he came out of the toilet and questioned the first victim and threatened her by pinching her thighs. The accused also hit on the head of the first victim with knuckle and threatened both the victims with dire consequences, if they reveal the incident to anyone. There are so many victims with the same allegations.

4. On the complaint lodged by the grandmother of the first victim, the second respondent registered a case in Crime No 6 of 2015 for the offences under Sections 5(f)(m)(l) and 6 of the Protection of Children from Sexual Offences Act. After recording the statement under Section 164 Cr.P.C., the victims were sent for medical examination. After completing the investigation, final report was filed and the same has been taken cognizance in S.C. No. 15 of 2015 for the offences under Sections 6r/w. 5(f)(m)(l) and Section 10 r/w 9(f)(d) of the Protection of Children from Sexual Offences Act r/w.3(1)((xi) and (xii) of the SC/ST(POA) Ordinance Amendment Act, 1989 and rule 7(1) of the SC/ST(POA) Rules 1995. However, all the victims and their respective guardians turned hostile and they were all cross-examined by the Special Public Prosecutor. Subsequently, the prosecution came to know that the petitioner and his wife who is also a school teacher, in collusion with the said Special Public Prosecutor coerced all the witnesses to turn hostile to the prosecution. Therefore, the case was registered in Crime No.4 of 2020 on the file of the All Women Police Station for the offences under Sections 195(A), 201 and 506(i) of IPCr/w. Section 3(2)(vi) of SC/ST Act, 1989.

5. After completing investigation, final report has been filed and the same has been taken cognizance in Spl.S.C. No39 of 2020 on the file of the Special Judge(PCR Act Cases) Sivagangai and it is pending for trial. In the meanwhile, the Special Public Prosecutor was removed from service and new Special Public Prosecutor has been appointed. He immediately filed two Criminal Miscellaneous Petitions in Cr.M.P.Nos.1934 of 2019 and 1935 of 2019 to reopen and recall witnesses for some reasons and both the applications were allowed and aggrieved by the same, the petitioner filed petitions to set aside the said order in CrI.O.P(MD) Nos.1180 and 1183 of 2020 and this Court, by an order, dated 23.02.2021 dismissed the petitions holding that examination of witnesses once again is absolutely necessary in order to meet the ends of justice and confirmed the order passed by the trial Court. The petitioner also challenged the said order passed by this Court in SLP Nos.2996 and 2997 of 2021 before the Honourable Supreme Court and the Honourable Supreme



Court, by an order dated 20.10.2021 dismissed the Special Leave Petitions and observed that the trial Court has to dispose of the case without being influenced by any of the observation made in the order by this Court. In the order passed by this Court dated 23.02.2021 in CrI.O.P(MD) Nos.1180 and 1183 of 2020, this Court has observed as follows:

16. In the instant case, the accused is a Head Master, basically a teacher. Normally, a Head Master being in such an exalted position is not expected to behave unbecoming of his position because he is a guardian for the children studying in his school. A teacher is ranked next to the parents in our ancient scriptures. A revered guru stooping down to the level of not only allegedly exploiting the girl children studying in the school but also trying to cover up his misdeeds does not deserve any mercy. Mrs.Indhragandhi, the then Special Public Prosecutor, being a lady herself, allegedly took sides with the accused. Any number of legislations to curb the menace of child abuse can have no effect when the Special Public Prosecutor joins hands with the Perpetrator. The trauma of sexual abuse on a child is devastating. Even a terminally ill person is not so miserable as the children who are sexually abused. The mental stigma will never go away or fade. If a child misses her childhood happiness, how can we expect to transform herself to an achiever. It is like losing a battle even before it begins and it is a permanent block. The reason for the block being her own teacher is most unacceptable.

6. Further, the Honourable Supreme Court has directed the trial Court to dispose of the case without being influenced by any of the observations made in the impugned order. While being so, the petitioner filed petition to permit the prosecution to cross-examine and recall witnesses in spite of taking chief examination once again. When the petitioner challenged the order passed by the trial Court and thereby allowed the prosecution to reopen and recall the witness, this Court also confirmed the said order and held that examination of witnesses once again is absolutely necessary in order to meet the ends of justice. The said order is also confirmed by the Honourable Supreme Court. That apart, it is a peculiar situation that the Special Public Prosecutor colluded with the accused persons and thereby, threatened the victims to turn hostile and accordingly, they turned hostile, for which, the Special Public Prosecutor is also facing prosecution in Spl.S.C.No.39 of 2020 on the file of the Special Judge (PCR Act Cases, Sivagangai) for the offences under Sections 195 (A), 201, 506(i) and 214 of the Indian Penal Code read with Section 3 (2) (V) of the Scheduled Castes / Scheduled Tribes (Prevention of Atrocities) Act, 1989 and Section 16 of the Protection of Children from Sexual Offences Act, 2012

7. Therefore it is absolutely necessary to examine all the prosecution witnesses and hence, this Court finds no illegality or infirmity in the order passed by the Court below.



8. In the result, this Criminal Original Petition is dismissed as devoid of merit. Consequently connected miscellaneous petition is also closed.

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Sd/-

Assistant Registrar (RTI)

/ /2022

Sub Assistant Registrar(CS)

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To

1. The Inspector of Police,
All Women Police Station,
Sivagangai.
2. The Additional Public Prosecutor
Madurai Bench of Madras High Court
3. The Sessions Judge,
Fast Track Mahila Court,
Sivagangai.

Crl.O.P.(MD) No.5454 of 2022
and
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MGJ(12.04.2022) 4P 4C