



Crl.O.P.(MD) No.16851 of 2022

BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

DATED: 20.10.2022

CORAM

THE HON'BLE MR.JUSTICE **SATHI KUMAR SUKUMARA KURUP**

CRL.O.P(MD)No.16851 of 2022

A.Senthil Kumar

...Petitioner

vs

1.State represented by
Inspector of Police, AWPS, Theni.
(Cr.No.22 of 2019)

2.K.Sneka

...Respondents

PRAYER: Criminal Original Petition filed under Section 482 of Cr.P.C, praying to call for the records and quash the charge sheet filed in Spl.S.C.No.23 of 2020 on the file of the Mahila Court (Special Court for POCSO Act), Theni, in respect of Cr.No.22 of 2019 on the file of the first Respondent Police with respect to this Petitioner.

For Petitioner
For R1

: Mr.K.K.Udhayakumar
: Mr.R.Sivakumar
Government Advocate (Crl.side)

ORDER

This Criminal Original Petition has been filed to quash the charge sheet filed in Spl.S.C.No.23 of 2020 pending on the file of the learned Special Judge (Special Court for POCSO Act), Theni.



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2. Heard the learned Counsel for the Petitioner and learned Government Advocate (Crl.side) appearing for the first Respondent.

3. The learned Counsel for the Petitioner submitted that the Petitioner is arrayed as A4 in Spl.S.C.No.23 of 2020 on the file of the learned Special Judge (Special Court for POCSO Act), Theni. A1 is the cousin and A2 and A3 are parents of A1. It is the submission of the learned Counsel for the Petitioner that the Petitioner had contacted the family of the De-Facto Complainant for marriage alliance. At that time, the parents of the De-Facto Complainant declined stating that the De-Facto Complainant is a minor and after attaining the age of majority, they will arrange the marriage of the De-Facto Complainant with A1. Subsequently, the De-Facto Complainant and A1 developed love affairs. In the course of love, they had physical relationship and the De-Facto Complainant became pregnant. At that time, their marriage was performed by the parents of the De-Facto Complainant and the parents of the A1. Therefore, the case under the provisions of POCSO Act was registered against the parents of A1. Also, the Petitioner was roped in as A4. It is the submission of the learned Counsel for the Petitioner that subsequent to the registration of FIR, the De-Facto Complainant had married another person. Now, the



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Petitioner seeks to quash the charge sheet taken on file as Spl.S.C.No. 23 of 2020 pending on the file of the learned Special Judge, Special Court for POCSO Act, cases, Theni.

4.The learned Government Advocate (Crl.side) submitted that the charge relating to this Petitioner is under Sections 6 and 17 of POCSO Act and Sections 9 and 10 of Child Marriage Restraint Act, 1929 and Sections 294(b) IPC. The learned Government Advocate (Crl.side) vehemently objected to the line of arguments of the learned Counsel for the Petitioner stating that this Petitioner had already approached this Court on an earlier occasion along with other Petitioners. At that time, the then learned Single Judge of this Court, as per order, dated 28.04.2022, in Crl.O.P.(MD)No.10832 of 2020, had passed the following order:

"8.Accordingly, this Criminal Original Petition is dismissed. At this stage, the learned counsel appearing for the petitioner seeks indulgence of this Court to dispense with the personal appearance of the accused. Considering the fact that, there appears to be an affair between A1 and the victim girl, the personal appearance of the petitioners alone is dispensed with before the trial Court except for the hearing dates, receiving copies, framing the charges, questioning under Section 313 Cr.P.C., and at the time of passing judgment or any other dates that may be fixed by the Trial Court. The trial Court shall expedite the trial and dispose of the case in Spl.S.C.No.23 of 2020 as expeditiously as possible on its own merits and in accordance with law. Consequently, connected miscellaneous petition is closed."



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5. When this Court had directed the learned Special Judge, Special Court for POCSO Act Cases, Theni, to expedite the trial and dispose of the same by granting exemption from appearance for all the accused, except for receiving copies, framing of charges and questions under Sections 313 Cr.P.C., the relief sought by the Petitioners in the earlier Petition in Crl.O.P.(MD)No.10832 of 2020 was partly granted by granting them the exemption. Therefore, as rightly pointed out by the learned Government Advocate (Crl.side), this Court cannot entertain this second Petition specifically by the Petitioner, who was a party to the earlier proceedings. Hence, the argument of the learned Counsel for the Petitioner is rejected and accordingly, this Petition is dismissed. Consequently, connected Miscellaneous Petition is closed.

20.10.2022

Index:Yes/No

cmr

To

- 1.The Special Judge (Special Court for POCSO Act), Theni.
- 2.The Inspector of Police, AWPS, Theni.

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SATHI KUMAR SUKUMARA KURUP, J.

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