



Crl.O.P.(MD)No.16119 of 2022

BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

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DATED : 11.10.2022

CORAM :

CORAM : JUSTICE SATHI KUMAR SUKUMARA KURUP

Crl.O.P.(MD)No.16119 of 2022

and

Crl.M.P.(MD)No.10673 of 2022

1.Pandi @ Pandian

2.Murugan @ Muruganantham

... Petitioners

Vs.

1.State rep by

The Sub Inspector of Police,
Keelavalavu Police Station,
(in Cr.No.298 of 2021),
Madurai District.

2.Vetrivel Anbalagan

... Respondents

Prayer : Criminal Original Petition filed under Section 482 of the Code of Criminal Procedure, to call for the records pertaining to the impugned FIR in Cr.No.298 of 2021 on the file of the first respondent and quash the same as illegal.

For Petitioners
For R1

: Mr.A.Prasanna Rajadurai
: Mr.R.Sivakumar
Government Advocate (Crl. Side)

ORDER

This Criminal Origin Petition has been filed to quash the FIR in
Crime No.298 of 2021 on the file of the first Respondent.



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2.The learned counsel for the Petitioners submitted that the daughter of the Petitioners' sister had registered a case of mis-behavior against her neighbor. Based on the same, the sister of the Petitioners preferred a complaint with the Respondent Police. The occurrence alleged to have taken place on 23.09.2021. She also sent a complaint through post to the Superintendent of Police, Madurai. Thereafter, based on the instructions of the Superintendent of Police, the respondent police had registered the case only on 10.11.2021 for the occurrence that had taken place on 23.09.2021 under Sections 294(b) and 506(i) IPC, when the alleged offence attracts the ingredients of POCSO Act. On coming to know about the same, the second Respondent had preferred a counter complaint before the first Respondent. Instead of promptly registering the complaints given by the second respondent as well as the sister of the petitioners, the first Respondent had taken the complaint of the counter complainant at the earliest FIR in Crime No.298 of 2021 on 22.10.2021 and kept the complaint of the Petitioners' sister pending. Only after some time the case in Crime No.311 of 2021 was registered on the complaint given by the Petitioners' sister. Therefore, the Petitioner had approached this Court seeking quashment of the FIR registered for the counter complaint.



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3. On perusal of FIR in Crime No.298 of 2021 and FIR that was registered based on the complaint preferred by the Petitioners' sister in Crime No.311 of 2022 for the occurrence alleged to have been taken place on 23.09.2021, it is seen that the first Respondent with ulterior motive to help the accused in this case, wherein the offence of POCSO Act is attracted, had delayed the registration of the case. Initially the FIR in crime No.311 of 2021 was registered under Sections 294(b) and 506(i) IPC. Similarly, in the counter case also same offence under Sections 294(b) and 506(i) were registered. Subsequent to the filing of the case in Crime No. 311 of 2021, the case had been altered invoking the provisions of Sections 7 and 8 of the POCSO Act.

4.The learned Government Advocate (Crl. Side) appearing for the Respondent police would submit that in the POCSO Act case, the statement of the victim was recorded under Section 164 Cr.P.C., and final report was also filed before the learned Special Judge for POCSO Act Cases. The case, for which the Petitioner had approached this Court, is still pending and 6 witnesses have been examined.

5.Considering the submission of the learned counsel for the Petitioners and the learned Government Advocate (Crl. Side) and on perusal



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of the both complaints with connected documents filed along with this petition and the copy of the Statement recorded under Section 161 Cr.P.C., by the Respondent police in this case, in which the Petitioner had moved this Court, this Court finds that the averments made by the Petitioner in this petition seeking quashment of the FIR are found reasonable.

6.Further, the Respondent police was not prompt in registering the case under the POCSO Act,. The respondent police initially had registered the case only under Sections 294(b) and 506(ii) IPC that too with a delay. The complainant had promptly preferred the complaint on 23.09.2021 itself, but the case came to be registered only on 10.11.2021, after the registration of the counter case as early as on 22.10.2022. Therefore, the submissions of the learned counsel for the Petitioners is accepted and the FIR in Crime No. 298 of 2021 is quashed.

7.Accordingly, this Criminal Original Petition is allowed. Consequently, connected miscellaneous petition is closed.

11.10.2022

Index : Yes/No
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To

- 1.The Sub Inspector of Police,
Keelavalavu Police Station,
Madurai District.
- 2.The Additional Public Prosecutor,
Madurai Bench of Madras High Court,
Madurai.



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SATHI KUMAR SUKUMARA KURUP, J.,

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