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Crl.O.P.No.12260 of 2023

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 01.06.2023

CORAM:

THE HONOURABLE MR. JUSTICE G.CHANDRASEKHARAN

Crl.O.P.No.12260 of 2023

and

Crl.M.P.No.7474 of 2023

R.Balachandran

...Petitioner

Vs.

1.The State represented by
The Inspector of Police,
Kottur Police Station,
Coimbatore District.
(Crime No.305 of 2022)

2.Bhuvaneswari

...Respondents

PRAYER: Criminal Original Petition filed under Section 482 Cr.P.C. praying to call for the records quash in Crime No.305/2022 on the file of the Inspector of Police, Kottur Police Station for offences u/s.9(i)(f) r/w 10 of POCSO Act, 11(1)(iv) r/w 12 of POCSO Act and pass such further or other orders.

For Petitioners : Mr.K.Mohanraj

For R-1 : Mr.Leonard Arul Joseph Selvam
Government Advocate (Criminal side)



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ORDER

This Criminal Original Petition is filed to call for the records quash in Crime No.305 of 2022 on the file of the Inspector of Police, Kottur Police Station for offences u/s.9(i), 9(f) r/w 10 of POCSO Act, 11(1), 11(4) r/w 12 of POCSO Act.

2. Learned counsel for the petitioner submitted that, petitioner is implicated as 1st accused in Crime No.305 of 2022 registered for the offences under Sections 9(i), 9(f) r/w 10 of POCSO Act, 11(1), 11(4) r/w 12 of POCSO Act by Kottur Police Station. It is the submission of the learned counsel for the petitioner that, there are three incidents where, petitioner is said to have sexually assaulted the victim girl in the First Information Report.

(i) The 1st incident said to have happened in the year 2018-19, when the victim girl was studying 8th standard.

(ii) The 2nd incident said to have happened in September 2021.

(iii) The 3rd incident said to have happened in April 2022.

3. The 1st submission of the learned counsel for the petitioner is that, the complaint is a belated complaint, for the reason that, for the alleged incidents



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said to have happened in the year 2018, the complaint was given only in the year 2022. During the alleged 2nd incident, school was reopened only in the 1st week of September 2021. Petitioner was not dealing subjects for 11th standard. That apart, he was on leave for two days during the 2nd week of September 2021. In support of his submissions, he produced the information received under Rights to Information Act and copy of the attendance register. Thus, he submitted that, he is falsely implicated in this case and prays for quashing of the case.

4. In response, learned Government Advocate (Criminal side) submitted that, victim girl supported the First Information Report allegations in her statement recorded under Section 164 Cr.P.C. The investigation in this case is pending and would be completed soon.

5. Considered the submissions and perused the records.

6. As stated already, First Information Report was registered for the offences under Sections 9(i), 9(f) r/w 10 of POCSO Act, 11(1), 11(4) r/w 12 of POCSO Act. The First Information Report allegations, pertaining to this petitioner are, when the victim girl was studying 8th standard, petitioner used



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to sexually abuse her by unnecessarily touching her, lifting her shawl. When she informed this to her Head Master, the Head Master told her that he would enquire. Thereafter, nothing happened till her 11th standard. When she was doing 11th standard, during the 2nd week of September, when she was taking test in botany paper, petitioner sat near her and unzipped his pants and took the victim's hand and placed it on his unzipped part of the pant. Immediately, the victim girl withdrew her hand and came out after tearing the test paper. Thereafter, in the month of April, petitioner pressed her left breast and made comment that why her breast is sagging. These are the allegations, in so far as this petitioner, is concerned. There are allegations made against other accused Ramakrishnan.

7. During the course of investigation, victim girl's 164 Cr.P.C statement was recorded. She had clearly stated in her 164 Cr.P.C statement that, when she was studying 8th std, petitioner used to sexually abuse her, touch her inappropriately and lift her shawl. Then during her 11th standard, when she was taking written test, he came and sat near her, unzipped his pants and tried to make the victim girl to touch his private part. Then on another occasion, he pulled her hand and pressed her breast. He along with other accused showed



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other two girls and pointed out that their breast are firm.

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8. The First Information Report allegations and statement given by the victim girl clearly shows that petitioner had prima-facie committed offences punishable under Sections 9(i), 9(f) r/w 10 of POCSO Act, 11(1), 11(4) r/w 12 of POCSO Act.

9. The contention raised by the petitioner that, petitioner has not known victim girl and he was not taking classes for her and that he was on leave in the 2nd week of September 2021 are matters required to be investigated by the respondent police. As discussed above, there are materials available to proceed further with the investigation of this case. There are no merits in this petition, for quashing the First Information Report in Crime No.305/2022 on the file of the Inspector of Police, Kottur Police Station.

10. Accordingly, this Criminal Original Petition is dismissed. Consequently, the connected Miscellaneous petition is closed.

01.06.2023

Internet :Yes

Index :Yes/No



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G.CHANDRASEKHARAN, J.

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To:

1. The Inspector of Police,
Kottur Police Station,
Coimbatore District.
2. The Public Prosecutor,
High Court of Madras.

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