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Crl.OP.No.22862 of 2022

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 30.11.2023

CORAM:

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

Crl.OP.No.22862 of 2022 and  
Crl.MP.No.14667 of 2022

Shenbagavalli

... Petitioner

Vs.

1.The State rep by  
The Sub Inspector of Police,  
All Women Police Station,  
Tiruvannamalai

2.Karthika

... Respondents

**PRAYER:** Criminal original petition is filed under Section 482 of Cr.P.C. to call for records from the first respondent police in crime No.1 of 2022 and to quash the same insofar as the petitioner(A2) is concerned.

For Petitioner

: Mr.R.Thirumoorthy

For Respondents

For R1

: Mr.A.Gopinath,  
Government Advocate(Crl.side)

### **ORDER**

This Criminal Original Petition has been filed to quash the proceedings in crime No.1 of 2022 on the file of the first respondent registered for the offences under Section 309 of IPC and Sections 5(j)(ii) & 6 of

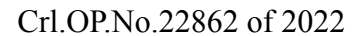


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Protection of Child from Sexual Offences Act, 2012 (POCSO Act) as against the petitioner.

2. The case of the prosecution is that the victim while she was studying 11<sup>th</sup> standard in Eklaya Modern Residential School at Pettipalayam, Thiruporur (Taluk), Kancheepuram District her teacher found that she got pregnant and failed to inform to her parents or police. Thereafter, the victim girl felt stomach ache and as such, immediately it was informed to her parents by the teacher on 23.12.2021. On 24.12.2021, she was taken by her parents to home. Thereafter on 07.01.2022, the victim consumed poison and immediately, she was admitted into Tiruvannamalai Government Hospital. However, she died on 18.01.2022. While she was alive, the first respondent registered FIR in crime No.1 of 2022 for the offence under Section 309 of IPC and Sections 5(j)(ii) r/w 6 of POCSO Act. There are totally three accused, in which the petitioner is arrayed as A2.

3. The learned counsel for the petitioner would submit that admittedly the petitioner is the teacher of the victim girl in the school. Even according to the case of the prosecution, the petitioner failed to inform about



4. The learned Government Advocate(crl.side) appearing for the first respondent submitted that after completion of investigation, the first respondent filed alteration report for the offence under Sections 5(j)(ii) r/w 6, 21(1) of the POCSO Act and 306 of IPC r/w Section 3(2)(v) of SC/ST Act. Now the petitioner is arrayed as second accused. There are specific pleadings as against the petitioner. As such, the grounds raised by the petitioner can be considered only before the trial court during the trial. Further, admittedly the petitioner is the teacher and she had knowledge about the pregnancy of the victim girl. Even then, she failed to inform to the police officer as well as the parents about her pregnancy.



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5. On perusal of records, the petitioner is arrayed as second accused.

As per the alteration report dated 19.01.2022, the deceased aged about 16 years was a hosteller in the school i.e. Eklaya Modern Residential School, Pettipalayam, Thiruporur, Kancheepuram District. On 23.12.2021, she felt some stomach pain and as such, it was informed by the petitioner who is being the teacher to the victim to her parents. On 24.12.2021, the parents of the deceased came to school and had taken her to their house. The petitioner also informed about her swelling of stomach and directed her parents to scan her to find out the issue. However, the parents did not subject the deceased for any medical examination. After seeing her stomach, the parents themselves insisted her for scan. Thereafter, on 07.01.2022, when the parents went for their avocation, at that juncture, the deceased consumed poison in order to commit suicide. Immediately, she was taken to Government Hospital, Tiruvannamalai by her parents. She was admitted as in-patient. On receipt of the information from the hospital, the first respondent registered FIR in crime No.1 of 2022 for the offence under Section 309 of IPC and Section 5(j)(ii) r/w 6 of POCSO Act. Unfortunately, the first respondent mechanically registered case as against the teacher and the headmaster of the school. Therefore, the headmaster of the school i.e. the third accused approached this Court for quashment of FIR in



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Crl.OP.No.9396 of 2022 and the same was allowed by this Court on

21.07.2022. At the time of admission of this petition, this Court specifically directed the first respondent to delete the petitioner's name and file final report as against the first accused. However, they did not file any final report so far. Even assuming that after having knowledge about the deceased pregnancy, she failed to inform the same to her parents or to the police officials, it would not constitute any offence as alleged by the prosecution.

6. It is very unfortunate to state that the first respondent registered case as against the headmaster and the teacher who imparted education to the deceased. In fact, the petitioner only informed about the deceased death to her parents. Further, the deceased was taken by her parents as early as on 24.12.2021. She was there with her parents till 07.01.2022. On 07.01.2022, she consumed poison and immediately, she was taken into hospital. She was alive till 18.01.2022 and died. Even then, the first respondent did not record any statement from the deceased. However, on 07.01.2022, when the pregnancy of the deceased was aborted, the mother of the deceased deposed before the first respondent that when the victim was in her house on 22.07.2021, the first accused had aggravated penetrative sexual assault on the



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victim, therefore she got pregnant. Now, he is arrayed as A1. Therefore, as far as the petitioner is concerned, she is being the teacher for the deceased, she has been implicated as an accused. The entire process is clear abuse of process of law and it cannot be sustained as against the petitioner.

7. Accordingly, the impugned proceedings in crime No.1 of 2022 on the file of the first respondent is quashed as against the petitioner alone and this criminal original petition is allowed. However, the first respondent is directed to file final report as against the first accused within a period of four weeks from the date of receipt of copy of this order. Thereafter, the trial court is directed to take cognizance on the final report to be filed by the first respondent and proceed with the trial. Consequently, connected miscellaneous petition is closed.

30.11.2023

Index :Yes/No

Internet : Yes/No

Speaking order/non-speaking order

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To

- 1.The Sub Inspector of Police,  
All Women Police Station,  
Tiruvannamalai
- 2.The Government Advocate,  
High Court of Madras



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**G.K.ILANTHIRAIYAN, J.**

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