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Crl.O.P.No.28690 of 2022

IN THE HIGH COURT OF JUDICATURE AT MADRAS

RESERVED ON : 20.04.2023

PRONOUNCED ON : 27.04.2023

CORAM

THE HON'BLE MR.JUSTICE G.CHANDRASEKHARAN

Crl.O.P.No.28690 of 2022

and

Crl.M.P.No.17619 of 2022

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Petitioner

Vs.

State represented by
The Inspector of Police,
H.4, Korukkupet Police Station,
Chennai – 600 021.

...

Respondent

PRAYER: Criminal Original Petition filed under Section 482 Cr.P.C. against the Impugned Order in Crl.M.P.No.1115 of 2022 in S.C.No.20 of 2016, dated 12.08.2022, on the file of the Special Court for Exclusive Trial of cases under POCSO Act, Chennai rejecting the petition filed under Section 310 of Cr.P.C. for local inspection of the place of occurrence.

For Petitioner : Mr.R.Sankarasubbu
For Respondent : Mr.Leonard Arul Joseph Selvam
Government Advocate (Crl.Side)



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ORDER

This Criminal Original Petition has been filed against the impugned Order in Crl.M.P.No. 1115 of 2022 in S.C. No. 20 of 2016, dated 12.8.2022, on the file of the Special Court for Exclusive Trial of cases under POCSO Act, Chennai, rejecting the petition filed under Section 310 of Cr.P.C. for local inspection of the place of occurrence.

2.The learned counsel for the petitioner submitted that petitioner filed a petition under Section 310 Cr.P.C for local inspection of the scene of occurrence by the Court in Crl.M.P.No. 1115 of 2022 in S.C. No. 20 of 2016. The reason is that the petitioner is innocent and she is falsely implicated in this case. The place of occurrence, namely, the office of the Trust (helping hands), at No.11/21, Kannan Street, Korukkupet, Chennai 21, was closed on 28.02.2014 unlawfully. Valuables and certificates from the District Collector to run the Home were kept in the office along with various other documents. Therefore, it is necessary to visit the place of occurrence for appreciation of evidence, to find out whether the office would have been in the manner as projected by the prosecution along with the office at No.18/7, Rajavelu Street, Royapuram, Chennai 13, where young girls were staying and also to know the



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physical features of the house for better appreciation. However, that petition was dismissed, necessitating filing of this petition.

3.In support of his submissions, he produced the letter of the District Child Welfare Officer in Letter No.70/Ma.Ku.Paa.Aa/2014, dated 25.08.2014, to show the closure of the (helping hands) Home.

4.The learned Government Advocate (Crl.side) submitted that it is not necessary for having a local inspection of the scene of occurrence and other buildings mentioned in the petition for the purpose of appreciation of evidence. It is for the learned Sessions Judge to decide as to whether the place has to be inspected for the purpose of appreciation of evidence. The learned Sessions Judge decided against having local inspection and dismissed the petition.

5.Considered the rival submissions and perused the records.

6.Section 310 Cr.P.C. reads as follows.

310. Local inspection.

(1) Any Judge or Magistrate may, at any stage of



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any inquiry, trial or other proceeding, after due notice to the parties, visit and inspect any place in which an offence is alleged to have been committed, or any other place which it is in his opinion necessary to view for the purpose of properly appreciating the evidence given at such inquiry or trial, and shall without unnecessary delay record a memorandum of any relevant facts observed at such inspection.

(2) Such memorandum shall form part of the record of the case and if the prosecutor, complainant or accused or any other party to the case, so desires, a copy of the memorandum shall be furnished to him free of cost.

7.As per this section, any Judge or Magistrate may, at any stage of inquiry, trial or other proceeding, visit and inspect any place in which an offence is alleged to have been committed, or any other place, which is, in his opinion necessary to be viewed for the purpose of proper appreciation of evidence, visit the place after notice to the parties. Therefore, it is for the Judge or Magistrate to decide as to whether he or she is of the opinion that the place of occurrence or any other place is required to be inspected for the proper appreciation of evidence.



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8. In the case before hand, the learned Sessions Judge found that it is not necessary to visit the place of occurrence for the appreciation of evidence. The FIR allegation shows that the accused ran (helping hands) Home at Korukkupet and Royapuram for helping women, children and aged. 27 women, aged between 10 to 20 years and 12 men were residing in the hostel. Accused Thavasimani had sexual relationship with young women staying in the hostel and had recorded it and stored it in a laptop. One male child and two female children were caused injury with a hot iron rod. On receiving this information, inspection was conducted and a case was registered for the offences under Section 4 of POCSO Act, 2012 r/w Section 4 of the Tamil Nadu Prohibition of Harassment of Women Act, 1998. After completion of investigation, final report was also filed for the offences under Section 4 of POCSO Act, 2012 r/w Section 4 of the Tamil Nadu Prohibition of Harassment of Women Act, 1998. Only after the registration of FIR, the aforesaid hostel was closed. The offences committed by the accused would be spoken by the witnesses while giving evidence. The investigating officer had prepared the rough sketch with the observation Mahazar. Oral evidence of the witnesses and the documents collected would give a clear picture about the place of



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occurrence to the Court. Therefore, there is no need to visit the place of occurrence and the other place mentioned in the petition.

9.The learned Sessions Judge is also of the view that the local inspection is not necessary for the purpose of appreciation of evidence. This Court agrees with the finding of the learned Sessions Judge and confirms the order of the learned Sessions Judge.

10.Accordingly, this Criminal Original Petition is dismissed.

Consequently, connected miscellaneous petition is also closed.

sli

27.04.2023

Internet:Yes

Index:Yes/No

Speaking/Non speaking order

To:

1.The Inspector of Police,
H.4, Korukkupet Police Station,
Chennai – 600 021.

2.The Public Prosecutor,
High Court of Madras.



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G.CHANDRASEKHARAN, J.
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Pre-delivery Order in
Crl.O.P.No.28690 of 2022
and
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27.04.2023