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Crl.R.C.No.1920 of 2023

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 17.11.2023

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THE HONOURABLE MR.JUSTICE M.NIRMAL KUMAR

Crl.R.C.No.1920 of 2023 and
Crl.M.P.Nos.17943 & 17946 of 2023

S.Pushpalatha

... Petitioner

Vs.

1.The State represented by its
Inspector of Police,
W-9, AWPS Villivakkam,
(W-33, AWPS Madavaram),
Chennai – 49.
(Crime No.29/2021).

2.Meenakshi

... Respondents

PRAYER: Criminal Revision Petition filed under Sections 397 r/w 401 of Criminal Procedure Code, to call for the records pertaining to the order dated 13.10.2023 passed in Crl.M.P.No.2031 of 2023 in Spl.S.C.No.139 of 2022 by the learned Sessions Judge, Magalir Neethi Mandram (Fast Track Mahila Court, Tiruvallur) and set aside the same and discharge the petitioner from Spl.S.C.No.139 of 2022 pending on the file of Magalir Neethi Mandram (Fast Track Mahila Court), Tiruvallur.

For Petitioner	:	Mr.C.Iyyapparaj for Mr.R.Venkatesan
For Respondent	:	Mr.A.Damodaran, Additional Public Prosecutor

ORDER

This Criminal Revision Case has been filed to set aside the order, dated 13.10.2023 in Crl.M.P.No.2031 of 2023 in Special S.C.No.139 of 2022 passed



by the learned Sessions Judge, Magalir Neethi Mandram (Fast Track Mahila Court), Tiruvallur (trial Court).

2.The order of this Court, dated 09.11.2023 is extracted as follows:

“The petitioner challenging the dismissal of the discharge petition filed by the petitioner/A2 in Spl. S.C.No.139 of 2022 has filed this revision.

2. The contention of the petitioner is that the date of birth of the victim is 10.09.1999. She had earlier lodged a complaint with the Commissioner of Police on 15.12.2021, in which she did not specify the date on which the alleged incident had happened, i.e., the petitioner giving her fruit juice and thereafter, she fell unconscious. In the second complaint, given to the respondent police on 18.12.2021, the date and time of the alleged incident was mentioned as 12.04.2016 at 11.00 am. This is obviously for the purpose of bringing the case under POCSO Act. Since by 2017, the victim attained the age of majority. Hence, the date has been pushed back to the year 2016. Subsequent to the alleged incident, the victim married Murugesan who went to foreign country for search of job. Al in this case having continuous relationship with the victim girl, but of course on threat and compulsion and thereafter, she got pregnant and given birth to a child. Except for the alleged incident dated 12.04.2016, all other acts have been taken place when the victim attained majority.



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Further the plain reading of the statement of the victim and others would prove that the victim were in relationship with A1 and the petitioner/A2 has got nothing to do with the acts of A1 and hence, she has been falsely implicated only for the reason that she had been involved in the running of Shiradi Sarvasakthi Peedam Sai Baba Temple along with A1.

3. Learned counsel for the petitioner submitted that earlier, the petitioner had moved a quash petition before this Court in Crl.O.P.No.19070 of 2023, wherein this Court considered the petitioner's submission and directed the petitioner to raise all the grounds before the lower court and dismissed the quash petition on 25.08.2023. Thereafter, the petitioner has filed the discharge petition and subsequently, the discharge petition has been dismissed on 13.10.2023. His apprehension is that in the event, the petitioner's contention is not accepted at this stage, the trial court might take adverse view against the petitioner.

4. Learned Additional Public Prosecutor submitted that the victim girl had clearly stated in the complaint that when she was studying 12th standard, penetrative sexual assault had been committed by A1 and this was possible only due to the fact that the petitioner had given the fruit juice with Sedative to the victim and thereafter, she became unconscious and A1 had committed the offence. The petitioner/A2 has been involved in all activities of A1, which are spoken to by the witnesses. Whether A2 had approved the act of A1 or not is a matter of fact to be decided during the trial. Learned Additional Public Prosecutor seeks for



small accommodation to make his further submissions.”

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3.In continuation and conjunction to the earlier order passed by this Court on 09.11.2023, this Court is passing the following order.

4.The learned Additional Public Prosecutor appearing for the respondent Police submitted that in this case, there are evidence against both the petitioner/A2 and A1 who is none other than the husband of the petitioner. Both of them acted in tandem. When the victim girl was minor, she was sexually assaulted by the petitioner's husband/A1 which the petitioner/A2 had facilitated by giving cool drink laced with seductive. When the victim girl questioned the same, the petitioner threatened her, abused her and also deterred her not to make any complaint. Apart from this incident, the subsequent conduct of the petitioner proved abetment. He further submitted that earlier, the petitioner filed quash petition and the same was negatived by this Court. The points raised by the petitioner can very well be raised during trial, hence, strongly opposed this revision.



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5.Considering the submissions and on perusal of the materials, the points raised by the petitioner are to be decided only during the trial and this Court is not inclined to entertain this criminal revision and the same is dismissed.

6.It is made clear that the observations herein are only for the limited purpose of dismissal of the revision. The trial Court to proceed with the trial, decide the case on its own merits. The connected Miscellaneous Petitions are closed.

17.11.2023

Speaking Order/Non Speaking Order

Neutral Citation: Yes/No

Index : Yes/No

Internet : Yes/No

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To

1.The Magalir Neethimandram, (Fast Track Mahila Court),
Tiruvallur.

2.The Inspector of Police,
W-9, AWPS Villivakkam,
(W-33, AWPS Madavaram),
Chennai – 49.

3.The Public Prosecutor,
High Court, Madras.



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M.NIRMAL KUMAR, J.

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