



Crl.O.P.(MD)No.1336 of 2023

BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

DATED: **09.03.2023**

CORAM

THE HON'BLE MR.JUSTICE G.ILANGO VAN

Crl.O.P.(MD)No.1336 of 2023

and

Crl.M.P(MD) No.1193 and 1194 of 2023

Vimal Bose

... Petitioners/ Sole Accused

Vs.

1.The Inspector of Police,
All Women Police Station,
Tirunelveli City.
(Crime No.6 of 2022)

...Respondent/Complainant

2.S.Sandra

...Respondent/Defacto complainant

PRAYER : Criminal Original Petition filed under Section 482 of Criminal Procedure Code, to call for the records pending in Spl.C.C. No.64 of 2022 on the file of the Special Court for POCSO Cases, Tirunelveli and quash the same as against these petitioners.

For Petitioner : Mr.Chellapandian.S

For R1 : Mr.Nambiselvan.B
Additional Public Prosecutor

For R2 : Mr.L.G.Sarath Inigo



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ORDER

This Criminal Original Petition has been filed to call for the records pending in Spl.C.C.No.64 of 2022 on the file of the Special Court for POCSO Cases, Tirunelveli and quash the same as against these petitioners.

2. The case of the prosecution in brief:

The victim girl was aged about 12 at that time of occurrence and was studying 7th standard at Rose Mary School, Palayamkottai. After death of the father of victim girl, the accused has developed relationship with the family of the victim child and rendered helps. During the above said visit, the accused misbehaved with the victim girl and sexually abused her. On one day in the month of July 2020, the accused took the victim girl in a four wheeler, at that time, he misbehaved sexually with her by touching her private parts, also compelled to see obscene pictures and she was threatened not to tell the same to her parents. The above said misbehaviour continued on 27.09.2021 and 04.12.2021. On 26.10.2021, the mother of the victim girl was criminally intimidated. For the above



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said occurrence, FIR has been registered and Final Report has been filed for the offences punishable under Section 9(m), 10, 11(1), 11(3), 12 of POCSO Act and 506(ii) of IPC before the Special Court, Tirunelveli and the same was taken cognizance in Spl.C.C.No.64 of 2022.

3. Seeking quashment of the above said Spl.C.C.No.64 of 2022, this petition has been filed by the petitioner stating that only for giving assistance morally and financially, he helped the victim's family. But however the defacto complaint's mother tried to disturb the marriage proposal of the petitioner with other women. Because of that, his family members advised him to discontinue the help. Now because of the said discontinuation of help, false complaint has been given.

4. This petition has been filed on the following grounds that when the trouble arose, a case in Crime No.873 of 2021 was registered against the petitioner as if he caused damage and also she took steps not to enlarge the petitioner on bail. Similarly, CSR No.424 of 2021 has been registered against the petitioner. After the enquiry, the above said CSR was closed. Similarly, another complaint was registered before



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Perumalpuram Police Station and the same was also closed as false. So because of the above said situation only, the false complaint has been given as he misbehaved with the victim girl.

5. Heard the learned counsel for the petitioner, 2nd respondent and also the learned Additional Public Prosecutor.

6. Even though the elaborate facts and circumstances has been made in the petition, the only ground which is legal is that in respect of the occurrence said to have taken place on 26.10.2021, a case in Crime No.873 of 2021 was registered against the petitioner and Final Report was also filed and was taken cognizance in C.C.No.127 of 2022. So the present case is also for the similar or same occurrence which is clearly barred under the principles of double jeopardy.

7. The question which arises for consideration is whether the offence of such nature is liable to be quashed on the mere facts and circumstance that are mentioned in the petition.



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8. I am of the considered view that whether the complaint given for the same occurrence giving a color of child abuse cannot be the matter for consideration by this Court sitting under Section 482 of Cr.P.C. This is purely the factual issue. So, I am not convinced of any of the grounds mentioned in the petition. The petitioner can advance his defences which all are available to him legally and factually before the trial Court itself.

9. I find absolutely no valuable ground is made in the petition for quashing the criminal prosecution. Hence this Criminal Original petition deserves dismissal and accordingly dismissed. Consequently, the connected Miscellaneous Petitions are closed.

09.03.2023

NCC : Yes / No
Index : Yes / No
Internet : Yes / No
Indu

Note: Issue order copy on 16.03.2023.



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G.ILANGOVAN,J.

Indu

To

- 1.The Inspector of Police,
All Women Police Station,
Tirunelveli City.
- 2.The Additional Public Prosecutor,
Madurai Bench of Madras High Court,
Madurai.

Order made in
Crl.O.P.(MD)No.1336 of 2023

Dated: 09.03.2023