



Crl.RC.(MD).No.1058 of 2023

BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

DATED :27.09.2023

CORAM

THE HONOURABLE MR.JUSTICE K.K.RAMAKRISHNAN

Crl.RC.(MD).No.1058 of 2023

and

Crl.M.P.(MD).No.13584 of 2023

Raja

... Petitioner

Vs.

The State rep by
The Inspector of Police,
All Women Police Station,
Kumbakonam,
Thanjavur District.

... Respondent

PRAYER: Criminal Revision Case filed under Section 392 r/w 401 of the Criminal Procedure Code, to set aside the order dated 17.08.2023 made in Crl.M.P.No.132 of 2023 in S.S.C.No.45 of 2023 by the learned Principal Special Court for Exclusive Trial of Cases under POCSO Act, Thanjavur and allow the revision case.

For Petitioner	: Mr.K.M.Karunakaran
For Respondent	: Mr.R.Sivakumar
	Government Advocate (Crl.Side)



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ORDER

The petitioner herein filed this petition against order dated 17.08.2023 made in Crl.M.P.No.132 of 2023 in S.S.C.No.45 of 2023 by the learned Principal Special Court for Exclusive Trial of Cases under POCSO Act, Thanjavur.

2. According to the petitioner, namely, the accused and the *defacto* complainant were residing in the same street, but the petitioner did not go to the defacto complainant's house at all. The petitioner is a social activist and the defacto complainant is the sister of the petitioner's wife and she fell in love with the petitioner. Though the petitioner advised her, that she has not attained maturity and advised her to study well for her future, the defacto complainant was not prepared to agree the same and voluntarily came out from her house. The mother of the defacto complainant thought that the petitioner was responsible for her daughter leaving the house and lodged a false complaint by instigating her daughter. Further the father of the defacto complainant is working abroad and running a cellphone shop and having contacts with technocrats and he downloaded the photographs



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and lodged the false complaint against the petitioner.

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3. The petitioner herein filed a petition under Section 227 of the Cr.P.C., before the learned Principal Sessions Judge, Principal Special Court for Exclusive Trial of Cases, under POCSO Act, Thanjavur, in Crl.M.P.No. 132 of 2023, in S.S.C.No.45 of 2023, to discharge him from the proceedings initiated against him. The same was dismissed on 17.08.2023, stating that the delay is to be decided at the time of trial. Aggrieved over the same, the petitioner filed this case.

4. The learned counsel for the petitioner submitted that there is abnormal delay in filing FIR and the registration of case itself shows that there are false averments were made in the FIR. Hence, he seeks to allow this revision.

5. The learned Government Advocate (Criminal Side) appearing for the respondent on the other hand objected this petition stating that the petitioner was having sexual desire over the victim girl and committed the



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offence of penetrative sexual assault. The petitioner herein has filed this petition to drag on the proceedings. Hence, he seeks for dismissal of this case.

6. This Court considered the rival submissions made on either side and perused the materials available on record.

7. The delay in preferring the complaint is a matter for trial and the same has to be suitably explained by the prosecution and the defacto complainant at the time of trial. The acceptance of explanation is within the power of the trial Court. The delay in preferring the complaint is not a ground to quash the proceeding as held by the Hon'ble Supreme Court, in the case of *Skoda Auto Volkswagen(India) Pvt.Ltd., vs. State of Uttar Pradesh and others* reported in **2021 (5) SCC 795**. More particularly in sexual offences cases, the delay in filing complaint is not a ground for acquittal as held by the Hon'ble Supreme Court in the case of *Deepak Vs. State of Haryana* reported in **2015 (4) SCC 762** which reads as follows:

“16.Keeping this well-settled principle in



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mind, we find that the FIR in this case was lodged on 4-4-2007 when the prosecutrix disclosed to her mother of the incident first time as to what had happened with her hardly two weeks before the date of disclosure and the mother, in turn, immediately made a complaint to the police station and disclosed to the SI, who visited her place on coming to know of the incident. The late disclosure of the offence by the prosecutrix was also well justified by her in her statement recorded under Section 164 of the Code and also in her evidence wherein she said that the appellant had taken her photographs and had also recorded her talks with him on mobile. The accused was, as per her version, threatening her from raising any kind of alarm with the use of such evidence in his possession.”

Hence, this Court is not inclined to entertain this revision. Accordingly, this Criminal Revision case stands dismissed. Consequently, connected miscellaneous petition is closed.

27.09.2023

NCC :Yes/No
Index :Yes/No
Internet :Yes/No
sbn



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To
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- 1.The Inspector of Police,
All Women Police Station,
Kumbakonam,
Thanjavur District.
- 2.The Section Officer,
Criminal Section (Records),
Madurai Bench of Madras High Court,
Madurai.



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K.K.RAMAKRISHNAN, J.

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