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Crl.O.P.No.7809 of 2022

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 19.08.2024

CORAM:

THE HONOURABLE MR.JUSTICE **P.DHANABAL**

CRL.O.P.No.7809 of 2022 and  
Crl.M.P.Nos.4506 & 4507 of 2022

S.Nandhakumar

... Petitioner

Vs.

1.State rep by  
The Inspector of Police,  
AWPS\_ Ayanavaram,  
Chennai District.  
(Crime No.07 of 2021)

2. Kalpana

... Respondents

**PRAYER:** Criminal Original petition is filed under Section 482 of Criminal Procedure Code, to call for the records in Spl.S.C.No.185 of 2021 on the file of the Special Court for Exclusive Trial of Cases under POCSO Act, Chennai and quash the charges made in the final report filed in Spl.S.C.No.185 of 2021.

For Petitioner

: Mr.A.Arasu Ganeshan

For Respondent 1

: Mrs.G.V.Kasthuri  
Additional Public Prosecutor

For Respondent 2

: Mr.R.Muthukumar



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**ORDER**

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This criminal original petition has been filed to quash the proceedings in Spl.S.C.No.185 of 2021 on the file of the learned Special Court for Exclusive Trial of Cases under POCSO Act, Chennai thereby taken cognizance for the offences punishable under Section 8 of POCSO Act, 2005.

2. The case of the prosecution is that on 20.08.2019, the 2nd respondent gave a complaint to the 1st respondent police stating that the marriage between the petitioner and the 2nd respondent was took place in the year 2003. Out of wedlock, two girl children were born and now they are aged about 12 and 14 years respectively. Due to some misunderstanding between the petitioner and the 2nd respondent, they quarrelled each other. The petitioner is a drunkard and he used to abuse the 2nd respondent and he also misbehaved with his own daughters. Hence, the 2nd respondent/Defacto-complainant lodged a complaint against the petitioner and the same was registered in Cr.No.07 of 2021. The respondent police had filed a final report and the same was taken cognizance in Spl.S.C.No.185 of 2021 on the file of the Special Court for Exclusive Trial of Cases under POCSO Act, Chennai.

3. The learned counsel for the petitioner would contend that the 2nd



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Respondent/Defacto-complainant gave a false complaint against the petitioner

before the first respondent, based on the said complaint, the 1st respondent registered FIR for the offences punishable under Section 8 of POCSO Act, 2005. Thereafter, the first respondent without following procedures and without conducting proper investigation, they filed final report. Based on the final report, the trial court had taken cognizance for the offences punishable under Section 8 of POCSO Act, 2005 in Spl.S.C.No.185 of 2021. There are no sufficient materials as against the petitioner to constitute the offence under section 8 of POCSO Act and to proceed the case further. The petitioner is none other than the father of the victim girl, due to family dispute between the petitioner and the 2nd respondent, she lodged a false complaint as against the petitioner. The trial Court also without perusing materials taken cognizance as against the petitioner. Therefore, pending proceedings as against the petitioner are against the law and it is abuse process of law. Therefore, the proceedings in Spl.S.C.No.185 of 2021 on the file of the Special Court for Exclusive Trial of Cases under POSCO Act, Chennai is liable to be quashed.

4. The learned counsel for the 1st respondent would contend that based on the complaint given by the 2nd respondent, the first respondent registered a



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case in Crime No.7 of 2021 for the offence punishable under Section 8 of POCSO Act, 2005. The offences charged against the petitioner are grave in nature. The petitioner is none other than the father of the victim girl and he misbehaved with the victim girl. The respondent police has filed a final report before the trial Court and the trial Court has taken cognizance as against the petitioner in Spl.S.C.No.185 of 2021. Now the case is posted for framing of charges, at this stage, the petitioner has to face the trial. Therefore, the present quash Petition is liable to be dismissed.

5. The learned counsel for the 2nd respondent also reiterated the submissions of the learned counsel for the first respondent. He further submitted that the victim girl is aged about 14 years, the acts of the petitioner constitutes the offence under section 8 of POCSO act and there are prima facie material available as against the petitioner and the offences are grave in nature. Therefore, he prayed to dismiss the present quash petition.

6. Heard both sides'. Perused all the materials available on record.

7. It is the admitted fact that the petitioner is the father of the victim girl.

Based on the complaint given by the defacto complainant, the respondent



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police after registration of FIR, they made an elaborate investigation and filed charge sheet as against the petitioner. Thereafter, the jurisdictional Court after perusing the materials and being satisfied with the prima facie materials, taken cognizance and now the case is posted for framing of charges. The alleged offences are grave in nature and the said case requires elaborate trial. Further considering the guidelines framed by the Hon'ble Supreme Court of India in the case of *Neeharika Infrastructure Pvt.Ltd.*, case reported in **2021 SCC Online SC 315**, there are no grounds to quash the pending proceedings in Spl.S.C.No.185 of 2021 on the file of the Special Court for Exclusive Trial of cases under POCSO Act, Chennai. Therefore, this Court is not inclined to allow this petition.

8. At this juncture, the learned counsel for the petitioner would state that the petitioner is a handicapped person, therefore the personal appearance of the petitioner may be dispensed with. Since the trial is pending before the trial Court, it is for the trial Court to decide the same. Any application filed by the petitioner for dispense with the personal appearance of the petitioner, the trial Court has to consider the same on merits in accordance with law.



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9. In view of the above discussion, this Court is not inclined to quash the proceedings in Spl.S.C.No.185 of 2021 in Crime No.7 of 2021 on the file of the Special Court for Exclusive Trial of Cases under POSCO Act, Chennai. Accordingly, this criminal original petition is dismissed. Consequently, connected miscellaneous petitions are closed. The Special Court for Exclusive Trial of Cases under POSCO Act, Chennai is directed to complete the trial within a period of six months from the date of receipt of copy of this order.

19.08.2024

Index :Yes/No

Internet : Yes/No

Speaking order/non-speaking order

gvn

To



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1. The Special Court for Exclusive Trial of Cases under POCSO Act,  
Chennai.
2. The Inspector of Police,  
AWPS\_ Ayanavaram,  
Chennai District.  
(Crime No.07 of 2021)
3. The Public Prosecutor,  
High Court of Madras



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**P.DHANABAL,J.**

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