



WEB COPY



Crl.O.P.Nos.6962 & 8588 of 2024

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 25.04.2024

CORAM

THE HONOURABLE DR.JUSTICE **G.JAYACHANDRAN**

Crl.O.P.Nos.6962 & 8588 of 2024

and

Crl.M.P.Nos.5083 & 5085 of 2024

Roja ... Petitioner in Crl.O.P.No.6962/2024

Ramkumar ... Petitioner in Crl.O.P.No.8588/2024

Vs.

1.The State rep.by
The Inspector of Police,
All Women Police Station,
Tambaram.

... Respondent in both Crl.OPs

2.Rajesh ... Respondent in Crl.O.P.No.6962/2024

Prayer in Crl.O.P.No.6962 of 2024: Criminal Original Petition is filed under Section 482 of Criminal Procedure Code, pleaded to call for the records in Special S.C.No.189 of 2023 pending trial on the file of the Sessions Judge, POCSO Court, Chengalpattu and quash the same.

Prayer in Crl.O.P.No.8588 of 2024: Criminal Original Petition is filed under Section 482 of Criminal Procedure Code, pleaded to direct the



Crl.O.P.Nos.6962 & 8588 of 2024

records in Special S.C.No.189 of 2023 pending trial on the file of the Special Court for Exclusive Trial of Cases under POCSO Act at Chengalpattu to expedite the trial in Spl.S.C.No.189 of 2023.

For Petitioner : Mr.R.C.Paul Kanagaraj
in Crl.O.P.No.6962/2024

For Petitioner }
in Crl.O.P.No.8588/2024 }
For R2 }
in Crl.O.P.No.6962/2024 } : Mr.Avinash Wadhwari

For R1 in both Crl.OPs : Mr.S.Udayakumar
Government Advocate (Crl.Side)

COMMON ORDER

Matrimonial dispute between the husband and wife initially started with claim over the custody of the minor boy aged about 13 years at the time of occurrence has taken a different turn after complaint under POCSO Act, given by the minor boy against his mother and one Arun Pandian.

2. The respondent police has conducted investigation and has filed final report before the Sessions Judge, POCSO Court, Chengalpattu for the alleged offence under Sections 12, 11(1), 17, 366



Crl.O.P.Nos.6962 & 8588 of 2024

IPC and 9(1), 10 of POCSO Act. While the wife has filed Criminal Original Petition [Crl.O.P.No.6962/2024] to quash the proceedings in Spl.S.C.No.189 of 2023 on the file of the Sessions Judge, POCSO Act, Chengalpattu, The husband has filed Crl.O.P.No.8588 of 2024 to expedite the trial in the said case within a time prescribed.

3. The sum and substance of the argument made by the learned counsel appearing for the petitioner in Crl.O.P.No.6962 of 2024 filed to quash the case is that the complaint is a motivated false complaint tutoring his minor child against his mother and for the said purpose father of the minor boy had bribed the Child Welfare Committee member, so as to influence the Investigating Officer to proceed on the fabricated complaint.

4. To substantiate the said allegations, the learned counsel appearing for the petitioner in Crl.O.P.No.6962/2024 rely upon the report of the District Collector regarding the enquiry conducted by them about the misconduct of the Child Welfare Committee member by name Selvi Baskar. There is a clear finding in the report indicating that the money



Crl.O.P.Nos.6962 & 8588 of 2024

has been transferred to the account of Child Welfare Committee member from the account of Ramkumar, the father of the minor boy two days prior to the registration of FIR on 15.08.2022.

5. The learned counsel appearing for the petitioner submits that the report and opinion of tainted Child Welfare Committee member had grossly influenced the Investigating Officer in conducting the investigation and therefore, the final report culminated in Spl.S.C.No.189 of 2023 has to be quashed.

6. The learned counsel for the petitioner/Ramkumar in Crl.O.P.No.8588 of 2024 submits that the complaint alleging sexual harassment against the mother and her paramour as alleged by the victim child himself, investigation proceeded, based on the statement given by the victim to the Judicial Magistrate which was recorded under Section 164 Cr.P.C. The role of Child Welfare Committee member has no bearing in the investigation which has culminated in filing a final report.



Crl.O.P.Nos.6962 & 8588 of 2024

7. The learned Government Advocate (Crl.Side) appearing for the State submits that the statement of witnesses including the victim been independently assessed by the Investigating Officer and has filed the final report. The role of Child Welfare Committee member by name Selvi Baskar is insignificant in this case. Therefore, there is no necessity to quash the proceedings pending trial.

8. The relevant documents relied by the respective counsel perused before lodging the complaint through minor boy. Estranged husband of the petitioner, in Crl.O.P.No.6962 of 2024 has made certain attempts to take the custody of the boy through Child Welfare Committee and also it appears that a Writ Petition was also filed in this connection. The report of the District Collector, Chennai dated 08.01.2024 reveals that when Child Welfare Committee is not a competent authority to handle matrimonial dispute, to favour Ramkumar, money has been received by one of the member by name Selvi Baskar from Ramkumar on several occasions through gpay and the said sum runs to more than Rs.1,10,000/-. On the same issue, the District Collector, Kancheepuram has also conducted enquiry and his report dated 01.03.2024 has found



Crl.O.P.Nos.6962 & 8588 of 2024

that Selvi Baska, member of Child Welfare Committee, who is a known person to Ramkumar, the father of the minor boy had received money from him during the enquiry of the dispute between husband and wife regarding the custody of the child and also certain telephonic conversation between them touching upon the criminal complaint pending.

9. In the above facts and circumstances, this Court is of the view that the final report filed is defective in the sense not been investigated the matter holistically and the Collector report regarding the tainted Child Welfare Committee member who had influenced in registering the complaint and misleading the investigation, not been properly taken note by the Investigating Officer while filing final report. Therefore, as far as the final report filed which has culminated in Spl.S.C.No.189 of 2023 has to be quashed. The Commissioner of Police, Tambaram is directed to appoint a competent Investigating Officer to conduct further investigation and file final report within a period of 4 months, taking note of the entire facts and material evidence available.



Crl.O.P.Nos.6962 & 8588 of 2024

10. In the light of the above directions, these Criminal Original Petitions are disposed of. Consequently, the connected Criminal Miscellaneous Petitions are closed.

25.04.2024

Index : Yes/No

Neutral Citation : Yes/No

rpl

To

1.The Sessions Judge, POCSO Court, Chengalpattu.

2.The Commissioner of Police,
Tambaram Commissionerate,
Chennai,

3.The Inspector of Police,
All Women Police Station,
Tambaram.

4.The Public Prosecutor,
High Court of Madras,
Chennai.



WEB COPY



CrI.O.P.Nos.6962 & 8588 of 2024

Dr.G.JAYACHANDRAN,J.

rpl

CrI.O.P.No.6962 & 8588 of 2024

25.04.2024