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CrI.O.P.No.14205 of 2024

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 01.07.2024

CORAM

THE HONOURABLE DR.JUSTICE G.JAYACHANDRAN

CrI.O.P.No.14205 of 2024
& CrI.M.P.No.8665 of 2024

Praveen

... Petitioner/Sole Accused

/versus/

1. The Inspector of Police,
All Women Police Station Perur,
Coimbatore, Coimbatore District.

2. Tashania Swizal.

... Respondent/Complainant

Prayer: Criminal Original Petition has been filed under Section 482 of Cr.P.C., to call for the records pertaining to the Spl.S.C.No.29 of 2022 on the file of the Principal Special Court for POCSO Cases, Coimbatore, Coimbatore District.

For Petitioner : Mr.M.Mushtaq Ahamed

For R1 : Mr.K.M.D.Muhilan
Government Advocate (CrI.Side)



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ORDER

The petitioner herein is the sole accused and he is facing trial in Special S.C.No.29 of 2022 on the file of Principal Special Court for POCSO Cases, Coimbatore, for the offences under Section 5(l), 5(m), 5(n), 5(q), 5(j)(ii), 4(2), 6 of POCSO Act and Section 506(2), 376(3) and 323 of I.P.C. The allegation against the petitioner is that he had committed sexual assault against his own daughter.

2. The Learned Counsel appearing for the petitioner would submit that, due to misunderstanding between him and his wife, the minor daughter been used as a tool to give a false complaint. Further, the Learned Counsel for the petitioner submitted that the day on which the petitioner arrived from Muscat to India, the occurrence of sexual harassment was alleged. The victim girl, in the course of examination, denied her signature under Section 161 of Cr.P.C., a statement recorded by the Magistrate. The victim girl was never subjected to medical examination and the person who alleged to accompany the girl to the doctor was also not examined.



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3. Relying upon his travel document, the Learned Counsel for the petitioner submitted that the case against this petitioner has to be quashed since the prosecution has failed to make out a *prima facie* case against this petitioner and same has been well established by testimony of the victim girl.

4. This Court, after giving anxious consideration to the submission and the testimony of witnesses relied by the Learned Counsel for the petitioner, it is a case where a serious allegation is made against the father by the daughter. No doubt, during the trial, the daughter had turned hostile and the prosecution has taken leave of this Court and treated her as a hostile witness and cross examine her. In case of this nature and considering the relationship between the victim and the perpetrator of the crime, a full-fledged trial is required to ascertain whether the charges framed against the petitioner been proved in the manner known to law. Appreciating evidence piecemeal before trial is not the duty of the High Court while exercising power under Section 482 of Cr.P.C.

5. The Learned Government Advocate (CrI.Side) for the 1st respondent states that the matter stands for examination of Investigating Officers and the case listed to 2nd July 2024. The grounds raised by the petitioner are factual matter which has to be tested by adducing evidence.



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Therefore, without any observation regarding the merits of his submission, this

Criminal Original Petition is dismissed with liberty to the petitioner herein to canvass all points on his defence before the trial Court.

6. With the above observation, this Criminal Original Petition is dismissed. Consequently, connected Miscellaneous Petition is closed.

01.07.2024

Index : Yes/No.

Neutral Citation : Yes/No.

bsm

Copy to:-

1. The Principal Special Court for POCSO Cases, Coimbatore,
2. The Inspector of Police,
All Women Police Station Perur,
Coimbatore, Coimbatore District.
2. The Public Prosecutor, High Court, Madras.



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Dr.G.JAYACHANDRAN, J.

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