



Crl.O.P.No.21939 of 2024 in Crl.A.Sr.No.31414 of 2024

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S.M.SUBRAMANIAM, J.

AND

N.MALA, J.

(Order of the Court was made by *S.M.SUBRAMANIAM, J.*)

The present petition has been instituted to grant leave to file an appeal against the acquittal judgment passed by the Special Court for Exclusive Trial of Cases under POCSO Act, Chennai, in S.C.No.200 of 2016, dated 28.02.2023.

2.The learned Additional Public Prosecutor mainly contended that the Special Court failed to consider the veracity of deposition of PW1, who is the Manager of the Government Aided Home where the victim girl was admitted. Further PW2, victim girl also deposed about the ordeals undergone by her. PW20 is the Hotel Manager, who also had spoken about the arrival of girls along with some persons and stayed in his Hotel. Beyond that, the learned Additional Public Prosecutor relied on 164 statement of victim which was marked. 164 statement also speaks about the allegations against the accused persons and inspite of the evidences available on record, the Trial Court had failed to consider the same in a right perspective.



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3.The learned Additional Public Prosecutor would submit that the spirit of POCSO Act and the evidences produced by the prosecution as a whole deserves to be considered. The objective of the special enactment is to be considered with reference to the specific provisions. Once the charges are framed, the burden of proof is shifted on the accused.

4.The learned counsel for the respondent would oppose by stating that the Trial Court has considered all the evidences in right perspective and acquitted the accused. Once the Trial Court categorically considered the evidences produced by the prosecution and during examination, the victim girl herself has not stated anything about the incident, there is no reason to consider the present petition seeking to grant leave to file an appeal.

5.However, all these grounds are arguable during the hearing of the appeal elaborately. The petitioner State has made out a *prima facie* case for the purpose of grant of leave. Accordingly, leave granted and this petition is allowed.



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6.Registry is directed to number the criminal appeal, if it is otherwise in

order and list the matter for admission.

(S.M.S., J.) (N.M., J.)
23.09.2024

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