



Crl.R.C.No.1340 of 2024

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 18.10.2024

CORAM

THE HONOURABLE MR.JUSTICE M.NIRMAL KUMAR

Crl.R.C.No.1340 of 2024 and
Crl.M.P.Nos.11443 & 11445 of 2024

Nithin

... Petitioner

Vs.

The State Rep by
The Inspector of Police,
AWPS, Pollachi,
Coimbatore District.
(Cr.No.42 of 2022).

... Respondent

PRAYER: Criminal Revision Petition filed under Sections 438 & 442 of BNSS, to call for the records and to set aside the order passed in Crl.M.P.No.916 of 2023 in Spl.S.C.No.69 of 2023, on the file of the Sessions Judge cum Principal Special Judge, Coimbatore District vide order dated 16.07.2024.

For Petitioner : Mr.S.L.Maurric Meshaak

For Respondent : Mr.A.Damodaran,
Additional Public Prosecutor



Crl.R.C.No.1340 of 2024

ORDER

Challenging the impugned order, dated 16.07.2024 passed by the learned Sessions Judge, Principal Special Court for Exclusive Trial of Cases under POCSO Act, Coimbatore in Crl.M.P.No.916 of 2023 in Spl.S.C.No.69 of 2023, this criminal revision case has been filed.

2.This Court on 14.08.2024 and 29.08.2024 had passed the following orders:

Order, dated 14.08.2024:

“On the contention of the petitioner, it is seen that a love affair has been given criminal colour by the parents of the victim girl as though the petitioner with the sexual intent constantly followed the victim girl. The victim girl in her statements under Sections 161 and 164 Cr.P.C. states that the petitioner followed her, whenever she goes to tutorial centre and there is nothing more to it.

2.Mr.A.Damodaran, learned Additional Public Prosecutor takes notice for the respondent and seeks time to file his counter and also to inform the victim's parents about this case.

3.Post the matter on 22.08.2024.



4.Since the petitioner is studying 3rd year in the college, the proceedings in Spl.S.C.No.69 of 2023, on the file of learned Sessions Judge, Principal Special Court for Exclusive Trial of Cases under POCSO Act, Coimbatore, is stayed till 22.08.2024.”

Order, dated 29.08.2024:

“Pursuant to the order passed by this Court on 22.08.2024 & 14.08.2024, the victim girl and her mother appeared before this Court today.

2.Ms.Krishnaveni, Special Sub Inspector of Police attached to the respondent Police appeared today and not disputed the identity of the victim girl and her mother. She stated that the victim girl and her mother not inclined to proceed with the case in Special S.C.No.69 of 2023.

3.The victim girl and her mother stated before this Court that they are not inclined to proceed against the petitioner considering his young age, studies and life. The only apprehension is that the petitioner should not disturb the victim girl and her family in any manner. They agreed to give letter to the respondent Police not to further proceed with the case against the petitioner.



4.The learned counsel for the petitioner undertakes to file affidavit in this regard and also submits that the petitioner will not be a cause of any concern to the victim girl. The victim and her mother present today can submit a letter not inclined to proceed further in the case to the respondent Police as submitted before this Court.

5.Post the matter on 05.09.2024. Till then stay already granted by this Court is extended.”

3.In continuation and conjunction to the above said orders, this Court is passing the following order.

4.On perusal of the charge sheet, it is seen that the respondent Police listed fifteen witnesses, in which LW1 is the victim girl, LW2 and LW3 are her parents, LW4 is the house owner, LW5 is the Observation Mahazar witness, LW6 is the wife of LW4, LW7 is the School Headmaster, LW8 is the Woman Police Constable who escorted the victim girl to the Judicial Magistrate, LW9 is the videographer in the District Police Office who recorded the statement of the victim girl through video and audio mode, LW10 is the Municipal Authority who produced the Birth Certificate of the



victim girl, LW11 is the Sub Inspector of Police who received the complaint and registered FIR, LW12 is the Women Police Constable who typed the statement of witnesses in the laptop, LW13 is the Judicial Magistrate who recorded the statement under Section 164 Cr.P.C, LW14 and LW15 are the Investigating Officers.

5.From the statements of the victim girl (LW1) and her parents (LW2 & LW3), it is seen that both the petitioner and the victim girl were studying 12th and 10th respectively in the Government Higher Secondary School in Vettakaranputhur, Pollachi. At that time, they developed love affair and were regularly talking with each other. On coming to know about the same, the parents of the victim girl (LW2 and LW3) objected and stopped the victim girl from attending school and later shifted their residence to Bharathi Nagar, Anaimalai. Thereafter, the victim girl (LW1) was attending CTC Tutorial Centre. The case projected against the petitioner is that the petitioner was following the victim girl (LW1) and was attempting to revive the love affair which she withdrew, not inclined to continue. On 08.11.2022, when the victim girl (LW1) was alone at her home at 03.00 p.m, the



petitioner said to have entered the house, strangled her neck and forced her to continue the relationship. At that time, the mother of the victim girl (LW2) said to have come and three days later after discussing with the family members and others, a complaint was given against the petitioner.

6.The statement of the mother of the victim girl (LW2) is that she used to accompany the victim girl from the house to tutorial centre. It is not in dispute that the victim girl was staying in the first floor of rental premises where the other tenants available. The house owner who is staying in the ground floor not saw the petitioner entering the house. It is projected that the petitioner ran away when he was questioned by LW2. The love affair is not denied which got broken up and the petitioner attempted to revive which was refused and force was shown by the petitioner. This act of the petitioner cannot be said it is a sexual intent. The desire to act in a manner in order to fulfil sexual desire is not there. The sexual desire is an emotional and motivational state that denotes a person intention in sexual activities. The uncontroverted statement of witnesses and the act of the petitioner taken to be true, it cannot be termed as intentional sexual act.



WEB COPY

7.From the uncontroverted statements of witnesses, it cannot be said or even remotely inferred that there was sexual intent or sexual activities committed by the petitioner on the victim girl (LW1).

8.Both the petitioner and the victim girl are in adolescence age and were pursuing their education in a school together. Due to hormonal influences, they loved each other which got broken. The petitioner attempted to revive the love affair which now leads to the petitioner's current situation. Now the victim girl (LW1) and her parents (LW2 & LW3) appeared before this Court and informed that they are not interested in pursuing the complaint against the petitioner. Added to it, the victim girl and her parents (LW1 to LW3) gave statement to the respondent Police not to pursue the complaint against the petitioner. The parents (LW2 & LW3) are clear that the studies of her daughter/victim girl (LW1) not to be disturbed by the petitioner in any manner and the petitioner would not to be an obstacle in career development and life of the victim girl (LW1). The petitioner filed an affidavit before this Court that he is focused on his



education and career and he will not be a cause of concern in any manner to the victim girl (LW1), education and future life of her choice.

9.The learned Additional Public Prosecutor appearing for the respondent Police filed counter narrating the sequence of events from registration of FIR, investigation conducted and filing of final report. The respondent Police confirmed that the victim girl (LW1) and her parents (LW2 & LW3) appeared and given letters in writing not inclined to proceed with the case against the petitioner.

10.On the legal aspect of the case, it is seen that the petitioner committing house trespass is not made out and there is nothing to show that there was any hurt to the victim girl (LW1). As stated earlier, there is no sexual intent. Taking the case as a whole and also considering the subsequent development, this Court finds that there is no case made out against the petitioner. Hence, the petitioner is discharged from the case in Special S.C.No.69 of 2023. Accordingly, the impugned order, dated 16.07.2024 passed by the learned Sessions Judge, Principal Special Court



Crl.R.C.No.1340 of 2024

for Exclusive Trial of Cases under POCSO Act, Coimbatore in
Crl.M.P.No.916 of 2023 in Spl.S.C.No.69 of 2023 is set aside and this
criminal revision case is allowed.

11.In view of the discharge of the petitioner, the above case cannot be
referred or quoted against the petitioner in future in any manner including
his future employment. The connected miscellaneous petitions are closed.

18.10.2024

Index : Yes/No
Speaking Order/Non Speaking Order
Neutral Citation: Yes/No

vv2

To

1.The Sessions Judge,
Principal Special Court for Exclusive Trial of
Cases under POCSO Act,
Coimbatore.



WEB COPY



Crl.R.C.No.1340 of 2024

M.NIRMAL KUMAR, J.

vv2

2.The Inspector of Police,
AWPS, Pollachi,
Coimbatore District.

3.The Public Prosecutor,
Madras High Court.

Crl.R.C.No.1340 of 2024

18.10.2024