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Crl.O.P.No.24844 of 2024

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 11.12.2024

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THE HONOURABLE MR.JUSTICE P.VELMURUGAN

Crl.O.P.No.24844 of 2024

and

Crl.M.P.No.13949 of 2024

Allan Peter Udalphine

... Petitioner

Vs.

State Rep.by
Inspector of Police,
W-8, All Women Police Station,
Thirumangalam, Chennai,
Crime No.75 of 2019.

... Respondent

Prayer: Criminal Original Petition is filed under Section 528 of BNSS, 2023, to call for the records in Spl.S.C.No.78 of 2024 on the file of the Fast Track Mahila Court, Thriuvallur and quash the same.

For Petitioner : Mr.J.William Shakesphere

For Respondent : Mr.S.Sugendran
Additional Public Prosecutor



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ORDER

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This Criminal Original Petition is filed to quash the charge-sheet in Spl.S.C.No.78 of 2024 on the file of the learned Fast Track Mahila Court, Thiruvallur.

2. The case of the prosecution is that, based on the complaint of the Special Officer of Anti Vice Squad, a raid was conducted at Flat No.23, VGN Nagar, Phase 1, 3rd Cross Street, Nolambur, Chennai, on 17.12.2019 and four accused were arrested for soliciting prostitution and five girls were rescued and out of five girls, three of them were minors.

3. Initially, the respondent-Police registered a case in Crime No.75 of 2019 for the offences under Sections 3(2)(a), 4(1), 5(1)(a) of the Immoral Traffic (Prevention) Act, 1956 [hereinafter referred to as 'ITP' Act] against A1 to A4. After investigation, the respondent-Police filed a charge-sheet in Spl.S.C.No.78 of 2024 on the file of the Fast Track Mahila Court, Thiruvallur for the offences under Sections 3(2)(a), 4(1), 5(1)(a) of ITP Act which was altered into Sections 3(2)(a), 4(1), 5(1)(a) of ITP Act and Sections 11 r/w 12 and 18 of the Protection of Children



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From Sexual Offences Act, 2012 [hereinafter referred to as POCSO Act] and again altered into Sections 3(2)(a), 4(1), 5(1)(a) of ITP Act and Sections 11(vi) r/w 12, 5(j)(ii) r/w 6 and 18 of POCSO Act, against the accused persons (A1 to A5).

4. Learned counsel for the petitioner submitted that the petitioner has been arrayed as A5 in the charge-sheet and he was also shown as an absconding accused. As per the prosecution, the petitioner is the lease holder of the premises, in which, prostitution was solicited. However, on the date of alleged occurrence i.e., 17.12.2019, the petitioner was not the lease holder of the said premises and he has vacated the said premises much before 01.07.2019. He further submitted that neither in the complaint nor in the F.I.R the petitioner's name is mentioned. The petitioner is an innocent person and he is no way connected with the alleged offence, and accused 1 to 4 are only responsible for the alleged offence.

5. Learned Additional Public Prosecutor appearing for the respondent submitted that the petitioner was the lease holder of the said



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premises from 01.03.2019 to 01.02.2021 and the alleged occurrence took place on 17.12.2019. He further submitted that only with the knowledge of the petitioner, the accused A1 to A4 had committed the alleged offence.

6. Heard both sides and perused the materials available on record.

7. On a perusal of the records it is seen that the petitioner/A5, who took shop for lease, had committed the offence with the help of A1 to A4, therefore, *prima facie*, there are materials against the petitioner. Whether the petitioner vacated the building even before the alleged occurrence or not, can be decided only after trial. Therefore, the grounds taken by the petitioner are only a matter of defence to be established before the trial Court.

8. Considering the facts and circumstances of the case, this Court finds that there are sufficient materials to proceed with the case against the petitioner/A5, and hence, this Criminal Original Petition is dismissed with liberty to the petitioner to take all his defences before the trial Court



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in Spl.S.C.No.78 of 2024. Consequently, connected miscellaneous petition is closed.

9. The trial Court is directed to dispose of the case in Spl.S.C.No.78 of 2024 on merits and in accordance with law, within a period of one year from the date of receipt of a copy of this order as per Section 35(2) of POCSO Act, 2012.

11.12.2024

Index : Yes/No

Neutral Citation Case : Yes/No

Speaking Order : Yes/No

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To

1. The Judge,
Fast Track Mahila Court,
Thriuvallur.
2. The Inspector of Police,
W-8, All Women Police Station,
Thirumangalam, Chennai.
3. The Public Prosecutor,
High Court, Madras.



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P.VELMURUGAN, J

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