



CrI.O.P.No.30092 of 2024

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 02.12.2024

Coram:

THE HONOURABLE MR. JUSTICE P.VELMURUGAN

CrI.O.P.No.30092 of 2024

and

CrI.M.P.Nos.16977 and 16981 of 2024

Shanmugam

... Petitioner

Vs.

1. State represented by
Inspector of Police
Pudhuchatram Police Station,
Namakkal District
(Crime No.291 of 2023)

2. Masilamani

... Respondents

Prayer: Criminal Original Petition filed under Section 528 of B.N.S.S. praying to call for the records relating to Spl.S.C.No.22 of 2024 pending on the file of the Mahila Court, Namakkal and quash the same as against the petitioner.



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For Petitioner : Mr.S.Shunmugavelayutham
Senior Advocate
for Mr.R.T.Vijayaraaghavan
For 1st Respondent : Mr.S.Sugendran
Additional Public Prosecutor

ORDER

This Criminal Original Petition has been filed by the petitioner to quash the case in Spl.S.C.No.22 of 2024 pending on the file of the Mahila Court, Namakkal as against the petitioner.

2. The petitioner has been arrayed as A2 in Spl.S.C.No.22 of 2024 on the file of the Mahila Court, Namakkal and he has been charged for the offence under Section 21(2) of the POCSO Act for not reporting the offence to the concerned authorities.

3. The learned counsel for the petitioner submitted that the petitioner is the Head Master of the School in which the victim girl studied and he is not an accused and committed any offence. One of the teachers in the school was said to have misbehaved with the victim girls. Immediately, he made enquiry and



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also sent a report to the higher officials and also to the Sexual Harassment

Committee. Therefore, there is no violation on the part of the petitioner.

Section 21 (2) of the POCSO Act does not prescribe any time limit for sending the report about the occurrence to the authorities concerned and it is not a case of failure to file report to the authorities. There is only delay in filing the report/information.

4. Heard the learned counsel for the petitioner and the learned Additional Public Prosecutor appearing for the 1st respondent and also perused the materials available on record.

5. Since no adverse order is being passed against the 2nd respondent, notice to the 2nd respondent is dispensed with.

6. A perusal of records shows that the offence charged against the petitioner is serious in nature. Section 21 (2) of POCSO Act clearly says that if any offence of sexual in nature against the children is reported, the same should be reported immediately to the concerned authorities, whereas, in this



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case, when the victim girls earlier made complaints to the petitioner about the sexual offence committed by their teacher/A1, the petitioner has simply conducted enquiry and since the same was denied by A1, he came to the conclusion that no such occurrence had taken place and did not send any report to the authorities. Thereafter, when a complaint was made by the parents of the victim girl, the petitioner has sent a report to the authorities about the incident.

7. It is to be noted that the petitioner is only Head Master of the school and he was not authorized to conduct any enquiry or to investigate any offence especially the allegations of sexual assault against children. Even the law gives authorisation only to women police to conduct enquiry that too in un-uniform and only in the place where the victim choses to give statement and not in the police station and it cannot be conducted in any place against the wishes of the victim. When that be the object of the POCSO Act, the petitioner states that when the complaint was made by the victim girls, he himself conducted enquiry and found that no such occurrence had taken place, however, he



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warned the first accused and thereafter, when a complaint was made by the parents of the victim girls, he sent a detailed report to the authorities within 3 days from the date of complaint.

8. A reading of the entire materials shows prima facie allegations against the petitioner. The petitioner himself admitted that he is the Head Master of the School at the relevant point of time. When the victim girls made a complaint, the petitioner should have immediately intimated about the offence either to the concern authority or to the higher officials or to the police. But the petitioner had not chosen to intimate the same and instead, he himself has conducted enquiry/investigation and came to the conclusion that no such offence had taken place, which is against the object and provisions of law under the POCSO Act. Therefore, the petitioner is not entitled to the relief sought for. The grounds taken by the petitioner are all defence for trial.

9. Accordingly, this Criminal original Petition is dismissed. Consequently, connected Miscellaneous Petitions are closed.



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10. The petitioner is directed to appear before the Magistrate as and

when his presence is required.

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Index : Yes / No

Speaking Order : Yes / No

Neutral Citation Case : Yes/No

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To

1. The Mahila Court, Namakkal

2. Inspector of Police

Pudhuchatram Police Station,
Namakkal District

3. The Public Prosecutor

High Court of Madras



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P.VELMURUGAN. J.

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