



CrI.O.P.(MD) No.1739 of 2024

BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

DATED: 06.02.2024

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THE HON'BLE MR.JUSTICE SATHI KUMAR SUKUMARA KURUP

CRL.O.P (MD) No.1739 of 2024

Asamed Ali

...Petitioner

VS

**1.The Commissioner of Police,
Madurai City,
Madurai.**

**2.The Inspector of Police,
All Women Police Station (South),
South Gate,
Madurai City.**

3.Afrin

...Respondents

PRAYER: Criminal Original Petition filed under Section 482 of Cr.P.C, praying, to direct the first Respondent to direct the 2nd Respondent not to harass the Petitioner under the guise of enquiry on the basis of the Petitioner's representation dated 19.01.2024 and 30.04.2024.

For Petitioner	: Mr.P.Veerapandian
For R1 & R2	: Mr.T.Senthil Kumar Additional Public Prosecutor



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ORDER

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The learned Counsel for the Petitioner submits that the Petitioner had filed this Criminal Original Petition seeking direction against the second Respondent not to harass the Petitioner under the guise of enquiry on the basis of the Petitioner's representations dated 19.01.2024 and 30.04.2024.

2.It is the submission of the learned Counsel for the Petitioner that the Respondents 1 and 2 had registered a POCSO case and in the POCSO case, the Petitioner herein is neither the witness nor an accused. The trial in the POCSO case had almost been completed before the learned Special Judge for the Exclusive Trial of POCSO Act Cases, Madurai. At that stage, the Petitioner had been summoned by the Respondents 1 and 2. Therefore, he was forced to file this Petition seeking not to harass him.

3.The learned Additional Public Prosecutor, on instructions of the Respondents 1 and 2, would submit that as per the prosecution case in the POCSO case, the first accused is alleged to have used the mobile phone. On investigation of the mobile phone, it was found that the sim card belongs to the Petitioner herein, who is none other than the brother of the first accused.



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He would further submit that the phone was broken wantonly by the first accused to destroy the evidence. In the light of the submission of the learned Additional Public Prosecutor, it was found that the Trial Court had sought production of the report or the sim card.

4.By way of rejoinder, the learned Counsel for the Petitioner submits that the third Respondent is none other than the sister-in-law and wife of the first accused's brother. The child is also related to the Petitioner herein.

5.When there is a specific direction from the learned Trial Judge, the prosecution is duty bound to place all the relevant materials before the Trial Court.

6.Recording the submission of the learned Counsel for the Petitioner that the Petitioner is neither the witness nor the accused and also, as a citizen of this country, the Petitioner has to co-operate with the investigation process. Nothing wrong in furnishing the sim card, which the learned Trial Judge had directed the prosecution to produce. Since the charge sheet had already been filed, the Petitioner need not have any apprehension. He is



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duty bound to co-operate with the enquiry. The Investigating Officer is directed to issue summons as per the reported ruling of the Hon'ble Supreme Court in the case of *Lalitha Kumari Vs. State of Uttar Pradesh* reported in *(2014) 2 SSC 1* specifying the time and date. The Petitioner is directed to co-operate with the Investigating Officer regarding the directions issued by the learned Trial Judge by way of Writ Petition.

7.This Court cannot ignore the trial process. The trial in criminal cases are conducted to know the truth. It is for the learned Trial Judges to arrive at a proper conclusion even if there are lapses on the part of the Investigating Agency. The learned Trial Judges are within their discretion to pass appropriate orders directing the Investigating Agency to furnish the details either collecting materials or records. Therefore, in the way of said process of a fair trial, the Petitioner herein need not have any apprehension, as the submission of the learned Counsel for the Petitioner is conceded by the learned Additional Public Prosecutor stating that the trial is almost completed.



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In the light of those developments, this Criminal Original Petition is disposed of issuing direction to both the parties.

Internet: Yes./No

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Index: Yes/No

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Madurai.
- 2.The Inspector of Police,
All Women Police Station (South),
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Madurai City.
- 3.The Additional Public Prosecutor,
Madurai Bench of Madras High Court,
Madurai.



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SATHI KUMAR SUKUMARA KURUP, J.

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