



CRL MP(MD) No.12256 of 2024

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BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT
(Criminal Jurisdiction)

Wednesday, the Twentieth day of November Two Thousand and Twenty Four

PRESENT

The HONOURABLE MR. JUSTICE M.NIRMAL KUMAR

CRL MP(MD) No.12256 of 2024

IN

CRL OP(MD) No.19887 of 2024

PRABAKARAN

... PETITIONER/PETITIONER

Vs

1 THE INSPECTOR OF POLICE,
RAYAPPANPATTI POLICE STATION,
THENI DISTRICT.
CRIME NO. 422/2021.

2 XXXXXX
XXXXX,XXXXXX
THENI DISTRICT.

... RESPONDENTS/RESPONDENTS

Petition filed praying that in the circumstances stated therein and in the petition filed therewith the High Court may be pleased to Grant an order of AD-Interim Stay, staying all further proceedings of the impugned charge sheet in Spl.S.C.No.67 of 2024 on the file of the Learned Special Court for Exclusive Trial of cases under POCSO Act, Theni pending disposal of the above quash petition.

Prayer in CRL OP(MD). 19887/ 2024 :

To call for the records pertaining to the Impugned Charge sheet proceedings in Spl.S.C.No.67 of 2024 on the file of the Learned Special Court for Exclusive Trial of cases under POCSO Act, Theni and Quash the same as illegal in so far as the Petitioner's concern.



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Order : This petition coming up for orders on this day, upon perusing the petition filed in support thereof and upon hearing the arguments of MR.V.KATHIRVELU, Senior Counsel for MR.R.SHANKAR GANESH, Advocate for the petitioner and of MR.A.THIRUVADIKUMAR, Additional Public Prosecutor on behalf of the 1st Respondent, while admitting the Criminal Original Petition, the court made the following order:-

Mr.A.Thiruvadi Kumar, learned Additional Public Prosecutor takes notice for the first respondent.

2.The petitioner (A4), facing trial in Spl.S.C.No.67 of 2024 for offences under Sections 506(ii), 147, 323, 148 and 294(b) of the Indian Penal Code (I.P.C.) and Sections 7 and 8 of the Protection of Children from Sexual Offences Act, 2012 (POCSO Act), has filed the petition seeking to quash the proceedings.

3.The case against the petitioner and his family members is based on an incident that allegedly occurred on 08.08.2021. According to the complaint, at around 07:40 p.m., the petitioner, riding his two-wheeler in a rash and negligent manner near Neelakandan Temple, caused the victim girl to make a remark about his driving. Subsequently, on the same day at about 08:00 p.m., the victim girl allegedly confronted the petitioner and the co-accused (A1, A2, A3) who were standing in front of their house. During this confrontation, it is claimed that the petitioner verbally abused the victim girl, physically assaulted her, and tore her dress while making inappropriate physical contact with sexual intent. Based on these allegations, the victim lodged a complaint.



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4. The learned Senior Counsel for the petitioner submitted that although the incident took place on 08.08.2021, the complaint was not filed until 15.08.2021, raising concerns about the delay in reporting the incident. Further, the learned Senior Counsel points out that the victim's initial statement, recorded on 15.08.2021, did not include any mention of improper physical contact or sexual intent. It was only in a subsequent statement, dated 14.10.2021, that the victim introduced allegations regarding the tearing of her dress and improper touch. Further, a report from the Child Welfare Committee (CWC) on 12.08.2021 found the victim's statement to be exaggerated and possibly motivated, suggesting doubts about the veracity of her claims. In her 164 Cr.P.C. statement, recorded on 21.10.2021, the victim's testimony was further revised, seemingly to invoke the provisions of the POCSO Act.

5. The learned Senior Counsel also highlights that a separate case, Crime No.421 of 2021, was earlier filed by the petitioner's family against the victim's side, which has led to the filing of a charge sheet in C.C.No.75 of 2024 before the Judicial Magistrate Court, Uthamapalayam, for offences under Sections 147, 148, 294(b), and 506(ii) IPC.

6. The learned Senior Counsel further submitted that statements from village elders indicate that the two families were previously involved in a dispute, which was initially attempted to be resolved through discussions. However, the victim's family did not participate in the resolution process. The learned Senior Counsel



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further submitted that the victim, at the time of the alleged incident, was 17 years and 6 months old, just short of reaching the age of majority and now, she has attained adulthood.

7. Considering force in the submissions of the learned Senior Counsel appearing for the petitioner, this Court is inclined to grant an order of interim stay on all further proceedings in Spl.S.C.No.67 of 2024, pending before the Special Court for Exclusive Trial of Cases under the POCSO Act, Theni. Accordingly, an interim stay is hereby granted, suspending all further proceedings in the case.

8. Notice to the second respondent / de-facto complainant, who has now attained majority, returnable by 13.12.2024. Private notice is also permitted.

sd/-
20/11/2024

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/11/2024
Sub-Assistant Registrar (C.S. I / II / III / IV)
Madurai Bench of Madras High Court,
Madurai - 625 023.

smn2

TO

1 THE JUDGE,
SPECIAL COURT FOR EXCLUSIVE TRIAL OF CASES UNDER POCSO ACT,
THENI.

2 THE INSPECTOR OF POLICE, RAYAPPANPATTI POLICE STATION,
THENI DISTRICT.



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3 THE ADDITIONAL PUBLIC PROSECUTOR,
MADURAI BENCH OF MADRAS HIGH COURT, MADURAI.

+1. C.C. to MR.R.SHANKAR GANESH, Advocate SR.No.14297[I] Dated 20/11/2024
ORDER

IN
CRL MP(MD) No.12256 of 2024

IN
CRL OP(MD) No.19887 of 2024
Date :20/11/2024

RS/VR/SAR-(25.11.2024) 5P 5C
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