



CrI.O.P.(MD)No.19211 of 2023

BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

DATED: **28.11.2024**

CORAM

THE HON'BLE MR.JUSTICE N.ANAND VENKATESH

CrI.O.P.(MD) No.19211 of 2023

and

CrI.M.P. (MD) Nos.15178 of 2023 and 1562 of 2024

P.Girija

... Petitioner

Vs.

The Inspector of Police,
All Women Police Station,
Oomachikulam Police Station,
Madurai City.
Crime No.71 of 2022

... Respondent

PRAYER : Criminal Original Petition filed under Section 482 of Criminal Procedure Code, to call for the records and set aside the order dated 07.08.2023 made in Spl.SC No.128/2023 on the file of the learned Special Court for Exclusive of Trial of Cases under the POCSO Act, Madurai.

For Petitioner : Mr.J.Ananda Kumar
for M/s.T.Balakrishnan

For Respondent : Mr.A.Albert James
Government Advocate (CrI.Side)



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ORDER

This petition has been filed challenging the docket order passed by the Court below dated 24.07.2023 directing the victim girls to be kept in the home.

2. When the matter came up for hearing on 23.11.2023, this Court passed the following order:

“To set aside the order that has been passed by the trial Court dated 24.07.2023 seeking custody of the children, this petition has been filed by the petitioner.

2. During the pendency of the trial process, to know how the custody of the children came to the hands of the petitioner, notice was ordered to the defacto complainant. The defacto complainant would submit that the children were in his custody. They were attending school. During the school time, the second accused namely the mother of the children went to the school and after giving undertaking, took the children to Madurai and now the children are on the custody of the mother. Knowing that the children may be tutored by the



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accused, the trial Court passed order directing the children to be kept in Government Home, immediately direction was also issued to the Investigating Officer to monitor the victim girls, shall not have contact with the accused, during the course of trial process.

3.Keeping the children, who are aged about 10 and 5, in the Government home for the purpose of custody till they are examined may not be proper. Considering their future, the defacto complainant was required to be present before this Court and enquiry was also made as to whether any other fit person is available to take care of the children. Even though it has been stated that the second accused is separated from the petitioner, the fact is that she only took the children and handed over to the petitioner. It may not be proper to the petitioner to take the custody of the children. The defacto complainant must take care of the children and must produce them at the time of trial.

4.I find no reason to entertain this petition filed by the petitioner. Regarding the custody of children, the parties can workout their remedy through proper civil process. This Court may not pass order regarding the custody of children.



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Objection made by the petitioner also rejected.

5.However, it is stated that the children are now studying in Madurai. It has been stated that half yearly examination is scheduled to be held in the month of December. It may be extended up to 19th December. Till then, let the children may be in the custody of the petitioner. After that the above said order may take effect.

6.Let the development be informed to the Court on 22.12.2023.”

3.When the matter was taken up for hearing today, the report of the respondent was placed before this court. On going through the report, it is seen that the victim girls are now in the custody of the petitioner.

4.In the light of the above development, the victim girls can continue to be in the custody of the petitioner and the docket order passed by the Court below dated 07.08.2023, is hereby set aside. There shall be a direction to the Special Court for Exclusive of Trial of Cases under the POCSO Act, Madurai, to dispose of Special S.C.No.128 of



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2023 within a period of three months from the date of receipt of a copy of this order. Consequently, connected miscellaneous petitions are closed.

28.11.2024

NCC : Yes / No
Index : Yes / No
Internet : Yes / No
PKN

To

- 1.The Inspector of Police,
All Women Police Station,
Oomachikulam Police Station,
Madurai City.
- 2.The Additional Public Prosecutor,
Madurai Bench of Madras High Court,
Madurai.



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N.ANAND VENKATESH,J.

PKN

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Dated: 28.11.2024