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Crl.O.P.No.2789 of 2025

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 04.02.2025

CORAM

THE HON'BLE Mr. JUSTICE G.K.ILANTHIRAIYAN

CRL.O.P.No.2789 of 2025

and

Crl.M.P.Nos.1802 & 1803 of 2025

S.Venugopal

....

Petitioner

Vs

1. State Rep.By,
The Inspector of Police,
AWPS, Chitlapakkam,
Chennai.
Crime No.434 of 2022

2. Pavithra

....

Respondents

Prayer: Criminal Original Petition is filed under Section 528 of the Bharatiya Nagarik Suraksha Sanhita, 2025, to call for the records pertaining to the final report / Charge Sheet filed by the 1st respondent pending on the file of the Sessions Judge Exclusive Trial Cases under the POCSO Act, at Chengalpattu District in Spl.S.C.No.117 of 2024 and quash the same

For Petitioner : Mr.D.Ravikumar

For R1 : Mr.K.M.D.Muhilan
Government Advocate (Criminal Side)



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ORDER

This Criminal Original Petition has been filed to quash the proceedings in Spl.S.C.No.117 of 2024 on the file of the Sessions Judge Exclusive Trial Cases under POCSO Act, Chengalpattu.

2. The case of the prosecution is that the petitioner abused the victim girl from 01.05.2021 to 28.09.2022. Hence, the complaint was filed.

3. The learned counsel for the petitioner would submit that the petitioner was not given a fair opportunity to defend himself and that the charges are not substantiated by the evidence.

4. On instruction, the learned Government Advocate (Crl.Side) appearing for the first respondent submitted that all the witnesses have already been examined and the matter is now posted for arguments.

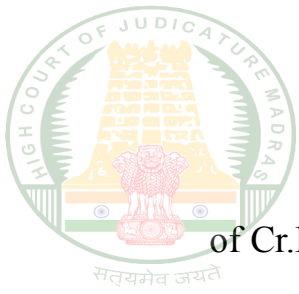
5. Heard the learned Counsel appearing on either side and perused the materials placed on record.



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6. It is seen that on the complaint lodged by the second respondent, the first respondent registered a case in Crime No.434 of 2022 for the offences under Sections 5(m), 5(1) r/w 6(1) of POCSO Act, 2012 Section 5 of POCSO Act. After completion of investigation, the first respondent filed final report and the same has been taken cognizance in Spl.S.C.No.117 of 2024 by the trial Court and it is pending. To quash the said criminal proceeding, the petitioner filed the present petition.

7. The Hon'ble Supreme Court of India in the judgment reported in *2019 (4) SCC 351* in the case of ***Devendra Prasad Singh Vs. State of Bihar & Anr., (Crl.A.No.579 of 2019 dated 02.04.2019)*** while dealing with the petition to quash the entire criminal proceedings held that the High Courts have no jurisdiction to appreciate the statement of the witnesses and record a finding that there were inconsistencies in their statements and therefore, there was no *prima facie* case made out as against the accused. It could be done only by the trial Court while deciding the issues on the merits or/and by the Appellate Court while deciding the appeal arising out of the final order that the charge sheet has been laid on the basis of the inconsistency statement under Section 161



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8. Further, the Hon'ble Supreme Court of India in the judgment reported in **2019 (10) SCC 686** in the case of ***Central Bureau of Investigation Vs. Arvind Khanna, (Crl.A.No.1572 of 2019*** dated 17.10.2019) held that the High Courts cannot record the findings on the disputed facts. The defence of the accused is to be tested after appreciation of evidence by the trial Court during the trial. Therefore, this Court has no power to consider the disputed facts under Section 528 of the Bharatiya Nagarik Suraksha Sanhita, 2023.

9. The Hon'ble Supreme Court of India in another judgment dated **02.12.2019** passed in ***Crl.A.No.1817 of 2019*** in the case of ***M.Jayanthi Vs. K.R.Meenakshi & anr***, held that while considering the petition for quashment of complaint or charge sheet, the Court should not embark upon an enquiry into the validity of the evidence available. All that the Court should see is as to whether there are allegations in the complaint which form the basis for the ingredients that constitute certain offences complained of. Further, the Court can also see whether the



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preconditions requisite for taking cognizance have been complied with or not and whether the allegations contained in the complaint, even if accepted in entirety, would not constitute the offence alleged. Whether the accused will be able to prove the allegations in a manner known to law would arise only at a later stage i.e., during trial.

10. Further this Court cannot observe at this stage that the initiation of the criminal proceeding itself is malicious. Whether the criminal proceedings are malicious or not, is not required to be considered at this state. The same is required to be considered at the conclusion of the trial. Therefore, the ground raised by the petitioner to quash the charge sheet cannot be entertained for quashing the entire proceedings.

11. In view of the above discussion, this Court is not inclined to quash the proceedings in Spl.S.C.No.117 of 2024 on the file of the Sessions Judge Exclusive Trial Cases under the POCSO Act, Chengalpattu. The Trial Court is directed to complete the trial within a period of twelve weeks from the date of receipt of a copy of this order.



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12. In the result, this Criminal Original Petition stands dismissed. Consequently, connected miscellaneous petitions are closed.

04.02.2025

Lpp
Index: Yes/No
Internet: Yes/No

To

1. The Inspector of Police,
AWPS, Chitlapakkam,
Chennai.

2 .The Public Prosecutor,
High Court, Madras.



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G.K.ILANTHIRAIYAN,J.

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