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CRL RC No.131 of 2



IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 20.11.2025

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THE HON'BLE MRS.JUSTICE T.V.THAMILSELVI

CRL RC No.131 of 2025

and

CRL MP Nos. 1127 & 1343 of 2025

Manjula,
W/o. Sivarathinam,
No.26/45, Muthamman Nagar,
Ayanavaram, Chennai-600 023.

..Petitioner(s)

Vs

State
rep. By the Inspector of Police,
W-6, AWPS Ayanavaram,
Chennai-600 023.

..Respondent(s)

PRAYER

Criminal Revision Case filed under Sec.438 and 442 of B.N.S.S, praying to set aside the order dated 26.10.2023 passed by the learned Special Court for Exclusive Trial of Cases under POCSO Act, Chennai allowing Crl.M.P.No.1228 of 2023 in Spl.S.C.No.142 of 2021 pending on the file of Special Court for Exclusive Trial of Cases under POCSO Act, Chennai.

For Petitioner(s): Mr. R.John Sathyan,
Senior Advocate for
Mr.B.Harikrishnan

For Respondent(s): Mr.S.Udayakumar
Government Advocate (Crl. Side)



ORDER

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Challenging the impugned order passed in Crl.M.P.No. 1228 of 2023 in Spl.S.C.No.142 of 2021 by the learned Special Court for Exclusive Trial of cases under POCSO Act, Chennai, the newly added accused-2 had preferred this Criminal Revision Case.

2.Before the respondent, the de facto complainant Subathira lodged a complaint against her husband one Senthilkumar stating that the marriage was solemnised between them 17 years back and they begotten two daughters, who are aged about 16 years and 8 years respectively and both are studying in a school. She is employed in a school as Junior Assistant and her husband is employed in Hindustan Petroleum Corporation Ltd. She complained that her husband used to stand nude in front of daughters and also sexually abused her daughter. Therefore, she gave complaint on 08.09.2020. Based on that, F.I.R. in Crime No.4 of 2020 was registered against him for an offence under Sec.10, 9(m), 9(n) and 12 of POCSO Act. After completion of investigation, the respondent police filed the final report against one Senthilkumar for an offence under Sec.10 r/w 9(m), (n) and 12 of POCSO Act @ 354, 354A and 9(w) r/w 10 and 11 r/w 12 of POCSO Act.



3. Trial was begun. The de facto complainant was examined as P.W.1 and her daughters were examined as P.W.2 and P.W.3. During the course of evidence, P.W.2, minor girl stated that her father had three sisters, who were her aunties and at the instigation of his sisters, her father used to harass her, more particularly, harassed her mother. When they were staying in her aunt's house, at that time, one of sister's son Navin made a bad touch and when it was informed to his mother, she stated to adjust with him and their aunt house is not comfortable one. So, they have started to live with her mother, but not stated about the date on which and when she was ill-treated. Pending trial proceedings, the prosecution prayed to implead Aunt Manjula and her son Navin as the accused by filing a petition in Crl.M.P.No. 1228 of 2023 by invoking Sec.319 of Cr.P.C. On considering the said petition, the trial judge had observed that one another sister's son of respondent/accused also abused the victim girls, after commencement of trial, during evidence, both P.W.2 and P.W.3 deposed that apart from the accused involved in the commission of offence, his sister and her son Naveen, also involved in commission of sexual offence on the victim child. Prima facie, the case was made out, accordingly, both were ordered to be impleaded as accused in this case. Aggrieved over that order, the petitioner/A-2 preferred this Criminal Revision Case.



4. The learned counsel for Petitioner/A2 would argue that there is a matrimonial dispute between the de facto complainant and her husband, for which, the other family members are no way connected with it. Due to the harassment made by the de facto complainant, her husband used to live in his sister's house. Aggrieved over that, the de facto complainant wanted to implicate all the sisters and family members of her husband with vengeance. He would submit that she developed evidence during trial as if her husband's one of husband's sister Manjula and her son Navin, as an Aunt's son of P.W.2 made a bad touch when they went to her house in order to put them into harassment by invoking the provisions under the POCSO Act. Therefore, pending trial, the Prosecution came forward with the petition to implead her husband's sister and sister's son as accused. But, without considering the entire facts and circumstances of the case, the trial judge allowed the said petition without assigning any reason as such is erroneous one and the same is liable to be set aside.

5. The learned Government Advocate (Crl. Side) appearing for respondent would submit that on considering the evidence given by P.W.2 and P.W.3, one of the sister of accused and her son are necessary parties to the proceedings, who said to be involved in sexual abuse. Therefore, the order passed by the trial judge requires no interference and prayed to dismiss this Criminal Revision Case.



6. Heard and considered the rival submissions made on either side and perused the materials available on record.

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7. Considering both side submissions and on perusal of records, the fact reveals that the de facto complainant and one Senthilkumar are husband and wife and they begotten two daughters, who are aged about 16 years and 8 years respectively and as per the complaint, the accused being father of two female children used to stand nude without having dress before the minor children and also having attempted to abuse them. Therefore, she gave a complaint, based on that, F.I.R. in Crime No.4 of 2020 was registered and the final report was also filed. Trial was also begun. However, on seeing the complaint, there is no allegation that sister's son of her husband sexually abused the children, but at the time of evidence, the de facto complainant and victim children deposed that Aunt's son has made a bad touch, however there is no mentioning about the date and time on which he made such attempt. So, there is no materials to implead them, but without considering the same, the trial judge allowed the petition as such is erroneous one. Moreover, the evidence of victim child deposing that they wanted to implead the family members, more particularly, sisters of accused also to be prosecuted under the POCSO Act with the malafide intention, since the de facto complainant has not liked the sisters of her husband. So, at her instigation, the present petition would have filed by the prosecution. If at all, children gave such evidence, based on that, they were



directed to be prosecuted and if really, Aunt's son misbehaved with minor children, the complaint ought to have been given much earlier, but in order to develop relationship strain, the petition was filed as such is not permissible under law and it is a clear case of abuse of process of law as rightly pointed by the learned counsel for petitioner. But, without considering all those aspects, the trial judge erroneously allowed the petition without assigning any reason. Therefore, this Court is inclined to set aside the findings rendered in Crl.M.P.No.1228 of 2023 in Spl.SC.No.142 of 2021 by the Special Court for Exclusive Trial of Cases under POCSO Act, Chennai. Accordingly, this Criminal Revision Case is allowed. Consequently, connected Criminal Miscellaneous Petitions are closed.

20.11.2025

Index: Yes/No
Speaking/Non-speaking order
Neutral Citation: Yes/No

RPP

To

1. The Special Court for Exclusive Trial of Cases under POCSO Act, Chennai.
2. The Inspector of Police, W-6, AWPS, Ayanavaram, Chennai-600 023.
3. The Public Prosecutor, High Court, Madras.



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T.V.THAMILSELVI J.

RPP

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