



Crl.O.P.No. 12819 of 2025

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 25.04.2025

CORAM:

THE HONOURABLE MR. JUSTICE **G.K.ILANTHIRAIYAN**

Crl.O.P.No. 12819 of 2025

and

Crl.M.P.Nos.8480 & 8483 of 2025

Ashok Kumar

.... Petitioner

Vs

State rep. by
The Inspector of Police,
Central Crime Branch,
Chennai CCB, Anti Squad 2,
Chennai
Crime No 16 of 2024.

.... Respondents

PRAYER: Criminal Original Petition is filed under Section 482 of Code of Criminal Procedure, to quash the Spl. S.C.No. 255 of 2024 pending on the file of the Hon'ble Special Court for Exclusive Trial of Cases under POCSO Act at Chennai and all consequential proceedings arising therefrom.

For Petitioner : M/s.S.Kartikei Balan

For Respondent : Mr.A.Gopinath
Government Advocate (Crl.Side)



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ORDER

This Criminal Original Petition has been filed seeking to

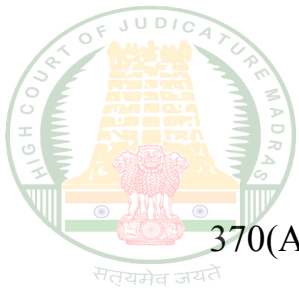
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quash the proceedings in Spl.S.C.no.255 of 2024 pending on the file of the Special Court for Exclusive Trial of cases under POCSO Act, Chennai.

2. The case of the prosecution is that the defacto complainant, who is the District Child Protection Officer, lodged a complaint alleging that the accused persons were involved in exploiting two minor girls for the purpose of prostitution. It is further alleged that the petitioner/A7 committed sexual assault on the victim girls at his residence. Hence, the complaint.

3. The learned counsel appearing for the petitioner would submit that the petitioner is arrayed as A7. Even according to the statement of the victim girl, there is no specific overt act as against the petitioner. Only on the basis of the complaint lodged by the District Child Protection Officer, the petitioner has been implicated in this case.

4. Based on the complaint, the respondent registered an FIR in Crime No.16 of 2024 for the offences under Sections 342, 366A,



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370(A), 372 and 373 of IPC and Sections 3(2)a, 4(1), 5(1)a, 5(1)b, 5(1)c, 6(2-A) r/w 6(1) of the Immoral Traffic (Prevention) Act, 1956 and 5(I), 5(p), 6 r/w 17 of the POCSO Act. After completion of the investigation, a final report was filed before the Special Court for Exclusive Trial of cases under POCSO Act, Chennai. The same has been taken cognizance in Spl.S.C.No.255 of 2024, which is pending for trial.

5. Heard the learned counsel appearing on either side and perused the materials available on record.

6. A perusal of the statement recorded from the victim reveals that she was sent to so many persons, however, she failed to mention the name of the petitioner as accused. A perusal of the FIR reveals that there are specific allegations as against the petitioner to attract the offence under Sections 5(I) r/w 6(1) of the POCSO Act. That apart, the petitioner committed very serious offence and heinous offence on the victim.

7. The Hon'ble Supreme Court of India in the judgment



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reported in **2019 (4) SCC 351** in the case of **Devendra Prasad Singh Vs.**

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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 180 of the Bharatiya Nagarik Suraksha Sanhita, 2023.

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.



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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 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 whether the initiation of criminal proceeding itself is malicious. The same is required to be considered at the conclusion of the trial. Therefore, the ground raised by the petitioner to quash the final report/charge sheet cannot be entertained to quash the entire proceedings.



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11. In view of the above discussion, this Court is not inclined to quash the proceedings in Spl.S.C.No.255 of 2024 on the file of the Special Court for Exclusive Trial of cases under POCSO Act, Chennai. The petitioner is at liberty to raise all the grounds before the trial Court.. However, the trial Court is directed to complete the trial within a period of six months from the date of receipt of copy of this Order.

12. Accordingly, the Criminal Original Petition stands dismissed. Consequently, connected miscellaneous petitions are also closed.

25.04.2025

Index : Yes/No
Neutral citation : Yes/No
Speaking/non-speaking order
Lpp

To

1.The Special Court for Exclusive Trial of Cases under POCSO Act,
Chennai

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2.The Inspector of Police,
Central Crime Branch,
Chennai CCB, Anti Squad 2,
Chennai

3.The Public Prosecutor,
High Court, Madras.



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