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Crl.O.P.No.13660 of 2025

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 30.04.2025

CORAM:

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

Crl.O.P.No. 13660 of 2025 and
Crl.M.P.Nos.9078 and 9079 of 2025

C.Balaji

.... Petitioner

Vs

1.State of Tamil Nadu
Rep by Inspector of Police,
W-17, Sembium AWPS, Peravallur,
Chennai.
(Crime No.23 of 2024).

2.Gajendiran

.... Respondents

PRAYER: Criminal Original Petition is filed under Section 528 of the Bharatiya Nagarik Suraksha Sanhita, 2023, to call for the records in Spl.S.C.No.43 of 2025 on the file of the Special Court for Exclusive Trial of Cases under POCSO Act, Chennai and quash the same.

For Petitioner : Mr.D.Percivul Pericles



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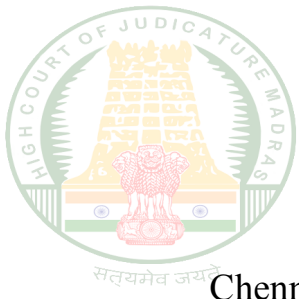
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For R1 : Mr.R.Vinothraja,
Government Advocate (Crl. Side)

ORDER

This Criminal Original Petition has been filed to quash the proceedings in Spl.S.C.No.43 of 2025 on the file of the Special Court for Exclusive Trial of Cases under POCSO Act, Chennai.

2. The case of the prosecution is that on 08.09.2024, at approximately 7:30 PM, the accused, in an intoxicated state, arrived at the victim's residence and found her alone in her bedroom. He then entered the bedroom and subjected the victim to sexual harassment. The accused instructed the victim not to inform anyone about the incident. The accused spoke to the victim in a rude and inappropriate manner, despite the fact that she was his daughter. Based on this, a case has been registered in Crime No.23 of 2024 for the offences punishable under Sections 9(l), 9(n) and 10 of POCSO Act, 2012, which was later altered to Sections 5(n) r/w 6(1), 11(i) r/w 12 of POCSO Act, 2012. After completion of investigation, the first respondent filed the final report before the Special Court for Exclusive Trial of Cases under POCSO Act,



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Chennai in Spl.S.C.No.43 of 2025.

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3. The learned counsel for the petitioner submitted that the allegations made as against the petitioner are vague, unfounded, and do not constitute a cognizable offense. There is no *prima facie* case made as against the petitioner, and continuing the proceedings would be an abuse of the judicial process. The learned counsel further asserts that the allegations are made in a manner that does not hold any legal weight and do not justify the continuation of the case. Hence, he prays to quash the proceedings.

4. The learned Government Advocate (crl.side) vehemently opposed the quash petition and submitted that the allegations made as against the petitioner are specific, credible, and warrant a full investigation and trial. He further states that the petitioner is attempting to bypass the regular judicial process by filing the quash petition while a discharge petition is already pending in the Trial Court. This constitutes an abuse of the process of law. Hence, he prays for the dismissal of this petition.



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5. Heard both sides and perused the materials placed before this Court.

6. This Court has carefully considered the submissions of both parties. It is noted that the petitioner has already filed a discharge petition before the Trial Court, which is pending consideration. The filing of a quash petition while the discharge petition is pending is seen as an attempt to prematurely halt the legal proceedings without sufficient grounds. This Court finds that this action amounts to an abuse of the process of law, as the petitioner is seeking to circumvent the established judicial process. This Court also observes that there are specific allegations as against the petitioner, and these allegations cannot be dismissed at this stage without a full examination of the evidence. The fact that the discharge petition is still pending before the Trial Court suggests that there is a proper legal mechanism in place to address the petitioner's claims. That apart, the petitioner had committed serious and heinous offence as against the minor, therefore, this quash petition does



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not meet the threshold for exceptional circumstances that would warrant interference with the ongoing proceedings.

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. (Criminal Appeal No.579 of 2019, dated 02.04.2019)***, while dealing with a petition to quash the entire criminal proceedings, held that the High Courts have no jurisdiction to appreciate the statements of witnesses and record a finding that there were inconsistencies in their statements, and therefore, no *prima facie* case was made out against the accused. Such an exercise can be done only by the Trial Court while deciding the case on merits or by the Appellate Court while deciding the appeal arising out of the final order. The charge sheet having been laid on the basis of inconsistent statements under Section 180 of the Bharatiya Nagarik Suraksha Sanhita, 2023, is not a ground for quashing at the pre-trial stage.

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***

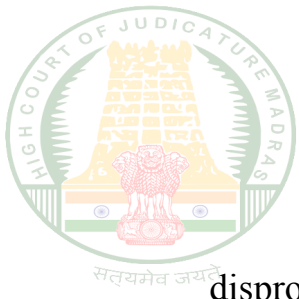


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Investigation vs. Arvind Khanna (Criminal Appeal No.1572 of 2019, dated 17.10.2019), held that the High Courts cannot record findings on disputed facts. The defence of the accused is to be tested after appreciation of evidence by the Trial Court during trial. Therefore, this Court has no power to consider 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 ***Criminal Appeal No.1817 of 2019*** in the case of ***M. Jayanthi vs. K.R. Meenakshi & Anr.***, held that while considering a petition for quashing a complaint or charge sheet, the Court should not embark upon an enquiry into the validity of the evidence available. All that the Court should examine is whether the allegations in the complaint form the basis of the ingredients constituting the offences complained of. Further, the Court can also examine whether the preconditions required for taking cognizance have been complied with, and whether the allegations contained in the complaint, even if accepted in their entirety, would constitute the offence alleged. Whether the accused will be able to



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disprove the allegations is a matter to be determined during trial.

10. Further, this Court cannot, at this stage, observe that the initiation of criminal proceedings is malicious. Whether the proceedings are malicious or not is a matter to be considered only at the conclusion of the trial. Therefore, the ground raised by the petitioner to quash the final report/charge sheet cannot be entertained for quashing the entire proceedings at this stage.

11. In view of the above discussion, this Court is not inclined to quash the proceedings in Spl.S.C.No.43 of 2025 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. 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.



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G.K.ILANTHIRAIYAN, J.
shk

12. Accordingly, this Criminal Original Petition stands dismissed.

Consequently, connected miscellaneous petitions are closed.

30.04.2025

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

To

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

2.The Inspector of Police,
W-17, Sembium AWPS, Peravallur,
Chennai.

3. The Public Prosecutor, High Court, Madras.

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