



Crl.R.C.No.1108 of 2025

IN THE HIGH COURT OF JUDICATURE AT MADRAS

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Dated: 17.07.2025

Coram:

THE HONOURABLE Mr.JUSTICE G.K.ILANTHIRAIYAN

Crl.R.C.No.1108 of 2025 &
Crl.M.P.No.14023 of 2025

M.Claro Devdan

...Petitioner

Vs.

The State rep. by
The Inspector of Police
W-4, All Women Police Station,
Kilpauk, Chennai

...Respondent

Prayer:

Criminal Revision filed under Sections 397 & 401 r/w 438 & 442 of BNSS Act to call for the records pending in Crl.M.P.No.653 of 2024 in J.C.No.2 of 2023 pending trial on the file of the Juvenile Justice Board (XII Metropolitan Magistrate), Kellys, Chennai and to examine the same and to set aside the order passed in Crl.M.P.No.653 of 2024 dated 19.03.2025 and to acquit the revision petitioner and set him at liberty.

For Petitioner : Mr.G.Prabhakaran

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



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ORDER

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This Criminal Revision has been preferred to call for the records pending in Crl.M.P.No.653 of 2024 in J.C.No.2 of 2023 pending trial on the file of the Juvenile Justice Board (XII Metropolitan Magistrate), Kellys, Chennai, thereby dismissing the petition to stop all further proceedings.

2. The case of the prosecution is that mother of the victim lodged a complaint alleging that she is a singer-cum-dubbing artist and due to her avocation, her minor child was left in her sister's house, while being so, the victim escaped from their custody and thereafter, with the help of police, the victim had returned to her house. Further, before one and a half years, mother of the victim received a phone call and she was directed to take her minor child along with her. Thereafter, the mother of the victim came to know that while the victim was six years old, one of the accused had given sexual torture and touched inappropriately and the other accused sexually assaulted her. The said complaint was lodged on 12.04.2021 and the respondent registered FIR in Crime No.6 of 2021 for the offences punishable under Section 10 r/w 9 (l),(m),(n) and 17 of POCSO Act and 506(ii) of IPC. After completion of investigation, the respondent filed final report



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and the same has been taken cognizance by the trial court. The petitioner and the

WEB COPY victim girl being minor at the time of alleged occurrence, the trial court in

Crl.M.P.No.1519 of 2022 by order dated 14.11.2022, split up the case against the petitioner herein and transferred the same to the Juvenile Justice Board for trial.

The trial court also recorded that the petitioner, who was aged 13 or 14 years at the time of occurrence had committed penetrative sexual assault to the victim and even vague allegations are recorded under Section 164 of Cr.P.C., from the victim.

Accordingly, whenever, the petitioner visited the house, he touched the victim inappropriately, but no specific allegations are made against the petitioner that he had committed sexual assault continuously against the victim, even after the victim attained majority. Therefore, the trial court concluded that the petitioner had committed the said offence, while the petitioner was aged 13 years. Therefore, the petitioner filed a petition under Section 258 of Cr.P.C., r/w Section 54 of the Juvenile Justice Act, 2000 to stop the proceedings in J.C.No.2 of 2023 and the same was dismissed. Aggrieved by the same, the present revision has been filed.

3. Heard the learned counsel on either side and perused the documents placed on record.



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4. On perusal of the records, it reveals that the alleged occurrence took place in the year 2010, for which, a complaint was lodged in the year 2021. After completion of investigation, the respondent filed final report for the offence punishable under Section 376(AB), 354, 354(A), 354(B), 352, 328 and 506(ii), 342 of IPC and Section 5(l)(m)(n) r/w Section 6 and Section 11(i), 11(iii) r/w Section 12 and Section 9(l), 9(m), 9(n) r/w Sections 10 and 17 and 21(1) of POCSO Act. The trial court had taken cognizance and framed 11 charges as against the accused persons. In so far as the charge against the petitioner is concerned, the petitioner was charged for offence under Section 6 of the POCSO Act. Before the trial court, the petitioner filed an application under Section 9 of the Juvenile Justice Act and Section 34 of POCSO Act to declare the petitioner as minor and transfer his case before the Juvenile Justice Board and the same was allowed for the above said reasons.

5. The statement of the victim was recorded under Section 164 of Cr.P.C., and it reveals that the petitioner had committed alleged offence on 01.03.2012, thereafter, the petitioner did not commit any offence, in so far as the other accused



are concerned, they continued the sexual assault on the victim girl till the year

WEB 2020. Y Thereafter, the Juvenile Justice Board proceeded with the trial and on the side of the prosecution, four witnesses, viz., P.W.1 to P.W.4 were examined and marked twelve Exhibits as Ex.P.1 to P.12. So far, the petitioner had cross examined witnesses, P.W.1 and P.W.2 and the petitioner is yet to cross examine other witnesses. Accordingly, the alleged offence was committed during the year 2010-2011 and at that time of alleged commission of offence, new Juvenile Justice Act, 2015 has not come into force and the petitioner was dealt with under Original Juvenile Justice Act, 2000. Therefore, by virtue of provisions under Section 54 of Juvenile Justice Act, 2000, the trial against the petitioner is to be held as trial on summon case and the POCSO Act, was enacted only in the year 2012 with prospective effect, therefore the petitioner cannot be charged for any offence under the POCSO Act. The charges under POCSO Act were non-est during the year 2010-2011, in fact, up to November, 2012. Further, the offence under Section 376 (AB) was inserted in the Indian Penal Code by the Criminal Law Amendment Act, 22 of 2018 with effect from 21.04.2018. Further, the offence under Section 354(A) was brought into effect vide Criminal Law Amendment 13 of 2013 with effect from 03.02.2013, therefore, the petitioner cannot be tried for



charges under the POCSO Act and for the charges under Section 354(A) and 376(AB) of IPC. At the most, the petitioner can be tried for offence under Section 454 of IPC, but on account of operation of provision under Section 468 of Cr.P.C., it is barred by limitation, since the final report was not filed within a period of one year. In the case on hand, the alleged occurrence took place in the year 2011 and the final report was laid on 23.07.2021. It is also relevant to extract the provision under Section 515 of BNSS Act (Section 469 of Cr.P.C.).

"Section 515 of BNSS Act : Commencement of period of limitation:

(1) The period of limitation in relation to an offender, shall commence, -

(a) on the date of the offence; or

(b) where the commission of the offence was not known to the person aggrieved by the offence or to any police officer, the first day on which such offence comes to the knowledge of such person or to any police officer, whichever is earlier; or

(c) where it is not known by whom the offence was committed, the first day on which the identity of the offender is known to the person aggrieved by the offence or to the police officer making investigation into the offence, whichever is earlier.



(2) In computing the said period, the day from which such period is to be computed shall be excluded."

6. That apart, on perusal of the evidence and also other statement reveals that the victim knows the alleged act committed by the petitioner, even in the year 2010-2011 itself. In fact, it was informed to her maternal aunt, however, the victim girl failed to inform to her grand mother, who is also living along with the victim girl. Therefore, the provision under Section 514 of BNSS Act (468 Cr.P.C) applies to the case on hand. Also, the respondent failed to file a final report within a period of limitation, therefore, the final report filed by the respondent cannot be taken cognizance for charge under Section 354 of IPC, hence, the petitioner rightly filed a petition under Secion 281 of BNSS Act (258 Cr.P.C) to stop all the proceedings in J.C.No.2 of 2023.

7. In view of the above, the order passed in Crl.M.P.No.653 of 2024 in J.C.No.2 of 2023 dated 19.03.2025 cannot be sustained and liable to be set aside and the present Criminal Revision is allowed. The petitioner is acquitted of all charges in JC No.2 of 2023 on the file of the learned XII Metropolitan Magistrate Court, Juvenile Justice Board, Kellys, Chennai. Fine amount, if any paid, shall be



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refunded to the petitioner forthwith. Bail bonds, if any executed, shall stand

cancelled. Consequently, connected miscellaneous petition is closed.

17.07.2025

Index : Yes / No
Internet : Yes / No
Speaking Order / Non Speaking Order
ssd

To

1. The Juvenile Justice Board (XII Metropolitan Magistrate),
Kellys, Chennai
2. The Public Prosecutor,
High court, Madras



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G.K.ILANTHIRAIYAN, J.

ssd

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