



Crl.R.C.No.1739 of 2024

WEB COPY

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 03.02.2025

CORAM

THE HON'BLE MR. JUSTICE P.VELMURUGAN

Crl.R.C.No.1739 of 2024

and

Crl.M.P.No.14302 of 2024

1. B.Loga Shanmuga Perumal

2. Sumathy

... Petitioners

Vs

1. State represented by
The Station House Officer,
Lawspet Police Station,
Through Special Public Prosecutor,
Union Territory of Puducherry.

2. Lalithambigai

[R2 impleaded as per order dated 13.12.2024 in
Crl.M.P.No.17792 of 2024 in Crl.R.C.No.1739 of 2024]

... Respondents

PRAYER: Criminal Revision Case filed under Section 391 of Cr.P.C., to call for the records relating to the order dated 05.08.2024 passed in Crl.M.P.No.81 of 2023 in Special Sessions Case No.27 of 2023 on the file of the Sessions Judge, (Fast Track Court exclusively to deal with offences under the POCSO Act) at Pondichery and to set aside the same as illegal.



WEB COPY



Crl.R.C.No.1739 of 2024

For Petitioners : Mr.R.Dakshina Murthy
For R1 : Mr.K.S.Mohandass
Additional Public Prosecutor
(Puducherry)
Assisted by Mrs.N.Danalatchumy
For R2 : Mr.S.Xavier Felix

ORDER

This Criminal Revision Petition has been filed to call for the records relating to the order dated 05.08.2024 passed in Crl.M.P.No.81 of 2023 in Special Sessions case No.27 of 2023 on the file of the Sessions Judge, (Fast Track Court exclusively to deal with offences under the POCSO Act) at Pondichery and to set aside the same as illegal.

2.Learned counsel for the petitioners submitted that second respondent and the second petitioner are relatives. The second petitioner is the aunt of the victim girls. In order to wreck vengeance on the civil dispute between the parties, a false case has been foisted against the petitioners. No allegation with regard to sexual harassment was made in the complaint and also in the statement of the witnesses. No *prima facie* allegations are available as against the petitioners.



Crl.R.C.No.1739 of 2024

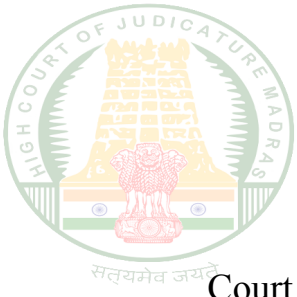
WEB COPY

3. Learned Additional Public Prosecutor appearing for the first

respondent-Police submitted that during examination, the victims have spoken about the involvement of the accused in the offences before the trial Court. Hence, the trial Court has given direction to the respondent-Police for further investigation. Based on the order of the trial court, the respondent-Police had also conducted further investigation and laid a charge sheet and thereafter charges have been altered. On investigation, it reveals that the accused has committed offence under Sections 8 and 10 of POCSO Act.

4. Heard the learned counsel appearing for the petitioners and the learned Additional Public Prosecutor (Puducherry) appearing for the first respondent-Police and the learned counsel for the private respondent and perused the materials available on record.

5. The petitioners filed a petition in Crl.M.P.No.81 of 2023 under Section 227 read with 239 of Cr.P.C to discharge them from the case in Spl.S.C.No.27 of 2023. The same was dismissed by the trial



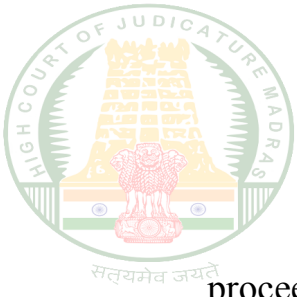
Crl.R.C.No.1739 of 2024

WEB COPY

Court vide imugned order dated 05.08.2024. Aggrieved over the same, the petitioners have filed this criminal revision case.

6. Admittedly based on the complaint given by the second respondent, the respondent police, registered the case and after completion of investigation, laid a charge sheet. It was found from the 164 Cr.P.C., statements of the victim girls that offence under Section 9(h)(i) and (n) of POCSO Act is also involved in this case. Hence, the trial Court directed the respondent-Police to conduct further investigation. Subsequently, the respondent police altered the sections and filed the charge sheet before the trial Court. The statement of the victims clearly shows that, there are *prima facie* materials available against the petitioners. Once *prima facie* materials are available, the case has to be proceeded further.

7. It is a well settled proposition of law that at the time of dealing with the petition for discharge, the Court has to see the case of the prosecution as to whether *prima facie* materials are available to



CrI.R.C.No.1739 of 2024

WEB COPY

proceed with the case further. The defence taken by the accused cannot be looked into at this stage. The court cannot conduct a roving enquiry at the time of deciding the petition for discharge. The veracity of the materials are to be decided only after trial. The allegation of the petitioners that the prosecution is false or malacious and the subsequent development in the prosecution case have to be considered only by the trial court and not by this Court at the stage of revision. This Court does not find any perversity in the order passed by the trial court in Cr.M.P.No.81 of 2023. There is no merit in the revision petition.

8. In view of the same, the Criminal Revision Case is dismissed. Consequently, connected miscellaneous petition is closed. However, the petitioners are at liberty to take all their defence during trial, before the trial court.

03.02.2025

mfa

Index: Yes/No

Speaking Order: Yes/No

Neutral Citation: Yes/No



Crl.R.C.No.1739 of 2024

WEB COPY

To

1. The Sessions Judge, (Fast Track Court exclusively to deal with offences under the POCSO Act) at Pondichery.
2. The Station House Officer,
Lawspet Police Station,
Through Special Public Prosecutor,
Union Territory of Puducherry.
3. The Public Prosecutor,
Puducherry.



WEB COPY



Crl.R.C.No.1739 of 2024

P.VELMURUGAN, J.

mfa

Crl.R.C.No.1739 of 2024
and
Crl.M.P.No.14302 of 2024

03.02.2025