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Crl.R.C No.1471 of 2025

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 18.08.2025

CORAM:

THE HON'BLE MR.JUSTICE G.K.ILANTHIRAIYAN

Crl.R.C No.1471 of 2025

and Crl.M.P.Nos.15678 & 15679 of 2025

Dr.K.M.Jothiraj

... Petitioner/Accused No.3

-VS-

State Represented by
The Inspector of Police
Odiansalai Police Station,
Puducherry.

Represented through Special Public Prosecutor
Cr.No.24/2024

... Respondent

PRAYER: This Criminal Revision Petition is filed under Section 438 r/w. 442 of BNSS Act, to set aside the order passed in Crl.M.P.No.95 of 2025 in Spl.S.C.No.15 of 2024 dated 18.07.2025 on the file of the Fast Track Court Exclusively to deal with offence under the POCSO Act at Puducherry.

For Petitioner : Mr.E.Vijay Anand

For Respondent : Mr.K.S.Mohandass
Public Prosecutor
(Puducherry)

ORDER



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This criminal revision has been filed as against the order dated 18.07.2025 passed in Crl.M.P.No.95 of 2025 in Spl.S.C.No.15 of 2024 on the file of the Fast Track Court Exclusively to deal with offences under the POCSO Act at Puducherry, thereby dismissing the discharge petition filed by the petitioner.

2. The case of the prosecution is that the first accused by name Sakthibala, who was working as a painter, lured the minor victim girl under the pretext of love and he had penetrative sexual assault with the minor victim girl on various occasions and as a consequence, she got pregnant. Thereafter, on 22.01.2024, the victim minor girl along with her mother, the *de facto* complainant, went to the fourth accused who is a Gynecologist and she opined to have pregnancy test with UPT kit and the minor victim girl was reported positive with pregnancy. On 23.01.2024, the victim along with her mother, consulted the second accused who is also a Gynecologist, to obtain an opinion about her pregnancy. After knowing that the victim is a minor and is pregnant, the 2nd accused referred the victim to take a scan at Sono Scan Centre, Puducherry, where the petitioner / third accused is working as a Radiologist. On recommendation, the petitioner had taken USG scan for the victim girl and gave the scan report to her. Thereafter, the



victim girl continued her regular check up with the 2nd accused. Initially, the FIR was registered as against the first accused in Crime No.24 of 2024 for the offences punishable under Sections 6 & 21 of POCSO Act r/w. Section 366 of IPC. During the investigation, the accused 2, 3 and 4 were implicated as accused for the reason that they have treated the minor victim girl, even after knowing that the victim girl was aged about only 15 years.

3. After completion of investigation, the respondent police filed a final report and the same was taken cognizance by the trial Court in Special C.C No.15 of 2024 for the offences punishable under Section 6 of the POCSO Act, 2012 and Section 366 IPC against the first accused and the accused 2,3 & 4 are charged for the offence under Section 21 of POCSO Act. Therefore, the petitioner filed a petition to discharge him from all the charges on the ground that he did not know the age of the victim girl. However, the trial Court had dismissed the discharge petition. Hence, the present revision is filed.

4. The learned counsel for the petitioner would submit that there are totally four accused in which the petitioner is arrayed as 3rd accused. The petitioner is a Radiologist in Sono Scan Centre, Puducherry and the victim



girl along with his mother went to take USG scan with the petitioner.

Accordingly, the petitioner has taken the USG Scan and gave the reports to the victim. Thereafter, the victim girl went to second accused for further treatment. Therefore, the petitioner had got nothing to do with the crime as alleged by the prosecution. While pending investigation, the petitioner has been implicated as an accused alleging that the petitioner has failed to provide any information to the concerned authorities, despite having the knowledge that the victim was a minor and she was subjected to penetrative sexual assault under the POCSO Act. There is absolutely no material to show that the petitioner had the knowledge of the victim girl and failed to report before the authorities concerned. Even then, the trial Court without considering the facts and circumstances of the case, had mechanically dismissed the discharge petition.

5. Per contra, the learned Government Advocate (Crl.Side), Pondicherry, appearing for the respondent submitted that the petitioner is arrayed as a third accused and after knowing that the victim is a minor girl and the 1st accused had committed the offence under POCSO Act, against the minor victim girl, he continued to take USG scan on the victim girl, that too, without informing the same to the concerned authorities. The offence



under Section 21 of POCSO Act is clearly attracted as against the petitioner and the respondent had rightly filed the charge sheet.

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

7. There are totally four accused, in which the petitioner is arrayed as third accused. Even according to the case of the prosecution, the petitioner is in no way connected to the first accused. He is a Radiologist in a private scan centre namely Sono Scan Centre, Puducherry. Since the victim reported that she got pregnant and as such, she was advised to go for a scan. Accordingly, the victim girl was brought to the Sono Scan Centre, Puducherry, by her mother. Since A2, who is a Gynecologist, referred the victim girl for USG scan, the petitioner took USG Scan and gave the report to the victim girl. Thereafter, the victim girl continued the treatment with the 2nd accused.

8. Further, on perusal of the statement recorded from the witnesses revealed that no one had spoken that the petitioner had knowledge that the victim was a minor at the time of her check up and that she was subjected



to POCSO offences by the first accused. Further, the prosecution had also failed to produce any material on record to show that the petitioner herself had voluntarily took USG scan on the victim, even after knowing the age of the minor victim girl as 15 years and she was already subjected to POCSO offences by the first accused. It is relevant to extract the provision under **Section 21 of POCSO Act** as under:

"21. Punishment for failure to report or record a case

(1) Any person, who fails to report the commission of an offence under sub-section (1) of Section 19 or section 20 or who fails to record such offence under sub-section (2) of Section 19 shall be punished with imprisonment of either description which may extend to six months or with fine or with both.

(2) Any person, being in-charge of any company or an institution (by whatever name called) who fails to report the commission of an offence under sub-section (1) of Section 19 in respect of a subordinate under his control, shall be punished with imprisonment for a term which may extend to one year and with fine.

(3) The provisions of sub-section (1) shall not apply to a child under this Act".

Thus, it is clear that any person who fail to report a commission of an offence under Section 19 or Section 20 or who fails to record such an offence under sub clause 2 (19) shall be punished under Section 21 of



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9. It is relevant to rely upon the judgment of the Hon'ble Supreme Court in the case of ***Dr.Sr. Tessy Jose & Ors v. The State of Kerala, reported in (2018) 8 SCC page 292***, in which it was held as follows:

"9. The entire case set up against the appellants is on the basis that when the victim was brought to the hospital her age was recorded as 18 years. On that basis appellants could have gathered that at the time of conception she was less than 18 years and was, thus, a minor and, therefore, the appellants should have taken due care in finding as to how the victim became pregnant. Fastening the criminal liability on the basis of the aforesaid allegation is too far fetched. The provisions of Section 19(1), reproduced above, put a legal obligation on a person to inform the relevant authorities, inter alia, when he/she has knowledge that an offence under the Act had been committed. The expression used is "knowledge" which means that some information received by such a person gives him/her knowledge about the commission of the crime. There is no obligation on this person to investigate and gather knowledge. If at all, the appellants were not careful enough to find the cause of pregnancy as the victim was only 18 years of age at the time of delivery. But that would not be translated into criminality.

10. The term "knowledge" has been interpreted by this Court in *AS Krishnan and Others v. State of Kerala* 1 to mean an awareness on the part of the person concerned indicating his state of mind. Further, a



person can be supposed to know only where there is a direct appeal to his senses."

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10. In the case on hand, even according to the case of the prosecution, the victim girl was brought by her mother to the petitioner's scan centre as referred by the second accused. After taking USG scan the petitioner continued her treatment with the second accused. Hence, the petitioner has got nothing to do with the present case. Further, it is not the case of the prosecution that the petitioner, with the help of the first accused, committed the offences under POCSO Act against the minor victim girl. Even according to the case of the prosecution, the first accused who is working as painter, lured the minor victim girl under the pretext of love and he had penetrative sexual assault with the minor victim girl on various occasions and as a consequence, she got pregnant. In order to check up her pregnancy, she was brought before the second accused and on her recommendation, the victim was taken to the scan centre where the petitioner is working as Radiologist and the petitioner has taken the USG Scan and gave the scan reports to the victim girl. Therefore, the petitioner is not said to be involved in the offence committed by the first accused and no charges have been made against him. In view of the above, the order passed by the trial Court dismissing the discharge petition cannot be



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sustainable and the same is liable to be set aside.

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11. Accordingly, the order dated 18.07.2025 passed in Crl.M.P.No.95 of 2025 in Spl.S.C.No.15 of 2024 on the file of the Fast Track Court Exclusively to deal with offences under the POCSO Act at Puducherry, is hereby set aside and the petitioner is discharged from all the charges. Further, the trial Court is directed to proceed with the trial against the first accused.

12. In the result, this Criminal Revision Case is allowed. Consequently, connected miscellaneous petitions are closed.

18.08.2025

Index:Yes/No
Internet:Yes/No
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G.K.ILANTHIRAIYAN,J

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To

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1.The Judge, Fast Track Court Exclusively to deal with offences under the POCSO Act at Puducherry

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2.The Inspector of Police
Odiansalai Police Station,
Puducherry.

3.The Public Prosecutor,
Puducherry.

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