

Crl.O.P.(MD)No.468 of 2025

BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

DATED: 10.01.2025

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THE HON'BLE MR.JUSTICE M.NIRMAL KUMAR

Crl.O.P.(MD)No.468 of 2025

Ashwathi

... Petitioner

Vs.

1.The Superintendent of Police,
Thoothukudi District,
Thoothukudi-628 101.

2.The Inspector of Police,
AWPS Thiruchendur,
Thiruchendur-628 215.

... Respondents

PRAYER : Criminal Original Petition filed under Section 528 of B.N.S.S., to direct the first respondent to transfer the investigation of FIR in Crime No.33 of 2024 on the file of the AWPS Thiruchendur Police Station, to the Deputy Superintendent of Police, Thoothukudi District.

For Petitioner	: Mr.S.Sivagurunathan
For R1 & R2	: Mr.K.Sanjai Gandhi
	Government Advocate (Crl.side)

ORDER

The petitioner /defacto complainant is the victim and she lodged a complaint against one Muthusiva s/o Veeramani and the case in Crime No.33 of 2024 was registered for the offence under Sections 318, 64, 351 and 296 (b) of BNS.



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2.The contention of the petitioner is that the offences are said to have taken place when the victim was 14 years old and hence, the offence under Section POCSO Act would get attracted. The respondent police though was made to know about the same, they have filed the case without invoking the provisions of POCSO Act. The respondent police also is not informing the stage of the investigation and hence, the petitioner's apprehends that if the investigation is taken by AWPS, Tiruchendur, the petitioner would be denied justice and there would not be proper investigation and it will give only benefit to the accused to escape from the law.

3.The learned Additional Public Prosecutor appearing for the respondent police submitted that on the complaint of the defacto complainant, a case has been registered. Thereafter, the petitioner's statement was recorded and she was produced before the Magistrate on 17.12.2024. Before the Magistrate, the petitioner gave her statement and confirmed that during when she was minor, penetrative sexual assault was committed by the petitioner. On coming to know about the same, the case has been altered into Sections 5 and 6 of the POCSO Act and the investigation is conducted in a proper manner and it is being monitored by the Deputy Superintendent of Police, Tirunelveli.



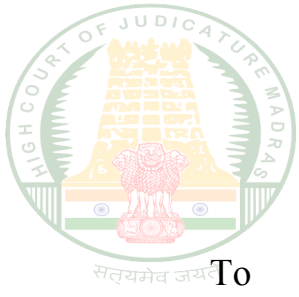
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4.It is further that accused in this case was arrested on the earlier and he was granted bail since at that time, it was projected as if a false promise of marriage and physical relationship. It is now proved that the accused have committed penetrative sexual assault of a minor girl, which is serious in nature.

5.In view of the above submission, this Court finds no reason to transfer the investigation. Accordingly, this Criminal Petition is dismissed. However, since gravity of the offence is changed and in view of the fact that custodial interrogation and medical examination of the accused is necessary, the respondent police is directed to take appropriate action to cancel the bail granted to the petitioner considering the present stage of the case. Further, the Deputy Superintendent of Police is directed to keep monitoring the investigation and ensure that the investigation is proceeded in the right direction and the final report is filed without any further delay.

10.01.2024

NCC : Yes / No
Index : Yes / No
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- 3.The Additional Public Prosecutor,
Madurai Bench of Madras High Court,
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M.NIRMAL KUMAR, J.

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