



Crl.O.P.(MD) No.2487 of 2025

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BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

Reserved on	24.09.2025
Pronounced on	26.09.2025

CORAM

THE HON'BLE MR.JUSTICE SUNDER MOHAN

Crl.O.P.(MD) No.2487 of 2025

and

Crl.M.P.(MD) Nos.1699 & 1702 of 2025

Dr.Banumathi

... Petitioner

Vs.

1.The State of Tamilnadu rep. by
The Inspector of Police,
AWPS Thiruppathur,
Thiruppathur,
Sivaganga District.
(Crime No.5 of 2021)

2.A.Simon George,
S/o.Alphonse,
Child Welfare Officer,
Sivaganga District.

... Respondents

Prayer : Criminal Original Petition filed under Section 528 of Bharathiya Nagarik Suraksha Sanhita, 2023 to call for the records relating to the charge sheet in SPL.S.C.No.29 of 2022 on the file of the Special Court for Exclusive Trial under POSCO Act cases, Sivaganga and quash the said proceedings as against the petitioner.



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For Petitioner : Mr.R.Sundar Srinivasan
For R1 : Mr.R.Meenakshi Sundaram
Additional Public Prosecutor
For R2 : No appearance

ORDER

This Criminal Original Petition has been filed to quash the final report in SPL.S.C.No.29 of 2022 on the file of the Special Court for Exclusive Trial of POCSO Act Cases, Sivagangai, filed against the petitioner for the offences punishable under Section 21(1) of the Protection of Children from Sexual Offences Act, 2012 [hereinafter referred to as 'POCSO Act'] and Section 80 of the Juvenile Justice (Care and Protection of Children) Act, 2015 [hereinafter referred to as 'JJ Act'].

2. The allegation in the final report is that the victim girl, who had a love affair with A1 when she was a minor, had sexual intercourse with him, as a result of which she became pregnant; that she was admitted to the hospital belonging to the petitioner; that the petitioner, without maintaining any records as required under the Rules, had performed a surgery on the victim girl to deliver the child; and that the petitioner, without informing either the District Child Welfare Officer or the police,



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had given the child in adoption to another person and thus committed the aforesaid offences.

3. The learned counsel for the petitioner submitted that the allegation, even if accepted as true, would not constitute the offences, since there is no evidence to show that the petitioner had knowledge about the commission of the offence under the POCSO Act; that the statement of the Child Welfare Officer, who is the second respondent herein, is based only on the information she received and hence her evidence is hearsay; that the doctors cannot be prosecuted in such a manner; that the petitioner, aged about 75 years, is a person of good reputation and vast experience; that the allegation regarding adoption said to have been given by one of the hospital staff, namely Selvi, would not make the petitioner liable for the offence under Section 80 of the JJ Act, and therefore, sought for quashing the impugned proceedings as against the petitioner.

4. The learned Additional Public Prosecutor for the first respondent, per contra, submitted that the question as to whether the petitioner had knowledge that the victim girl was a minor cannot be adjudicated in the quash petition; that there is evidence to show that the



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child was given in adoption by the staff of the hospital belonging to the petitioner; and that therefore, the petitioner is liable for the offences punishable under Section 80 of the JJ Act.

5. The second respondent, Child Welfare Officer, earlier appeared in person and this Court had recorded the statement of the Government Advocate that he would file vakalat on her behalf. However, it appears that the Government Advocate has not filed any vakalat.

6. The primary allegation against the petitioner is that the petitioner, being a doctor, knew that the victim was a minor and, after conducting the surgery on her, had not informed either the Child Welfare Officer or the police. Dr.Vijayan Mathamadakki, who has been cited as a witness by the prosecution, as he had performed the surgery on the victim girl to deliver the child, in his statement under Section 161(3) of the Cr.P.C., had stated that the victim had informed him that she was aged about 19 years.

7. The petitioner has produced the Admission Register maintained at the hospital belonging to her, which has not been disputed by the prosecution. In the said Admission Register, the consent of the father of



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the victim girl for admitting his daughter for delivery is recorded, and the age of the victim has been shown as 19 years.

8. In the light of the overwhelming evidence, the reliance placed by the prosecution on the statement of the second respondent/defacto complainant, Child Welfare Officer, recorded during the course of investigation, to the effect that the petitioner had performed the surgery on the minor victim with the requisite knowledge and had not informed the police, cannot be accepted. In similar circumstances, this Court in ***Dr. Jenbagalakshmi vs. State, rep. by its Inspector of Police, All Women Police Station, Srirangam, Tiruchirappalli District and another***, by the order dated 20.12.2025 rendered in Crl.O.P.(MD) No.15947 of 2024, quashed the proceedings with the following observations:

*“13. The learned Senior Counsel appearing for the petitioner would rely on the judgment of the Hon'ble Supreme Court in **SR.Tessy Jose and others Vs. State of Kerala** reported in (2018) 8 SCC 292, wherein, the Hon'ble Supreme Court has held that the knowledge requirement foisted on the appellants cannot be that they ought to have deduced from circumstances that an offence has been committed and the relevant passages are extracted hereunder:-*

“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



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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.

...

13. The knowledge requirement foisted on the appellants cannot be that they ought to have deduced from circumstances that an offence has been committed.”

14. In a similar case, *Dr.Latha N.N. Vs. State of Karnataka by Hebbagodi Police Station and another* (Criminal Petition No.3694 of 2023 dated 27.03.2024), the Karnataka High Court at Bengaluru, considered a scenario where a Doctor treated a victim girl, who claimed to be 18 years old. Citing the Hon'ble Supreme Court's decision in *SR.Tessy Jose's* case above referred, the High Court has held that continuing proceedings against the Doctor would amount to an abuse of process, given the nature of allegations and the discharge of the co-accused (4, 5 and 7) by the trial



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Court. Consequently, the Court quashed the case against the Doctor.

15. In the case of **Dr.Lata Krishnaraddi Mankali Vs. State of Karnataka through Ankola Police Station (Crl.RP.No.100169 of 2020 dated 02.02.2024)**, the High Court of Karnataka, Dharwad Bench, while considering the statement of the victim girl and her mother, who brought her to the hospital that the victim girl was aged 18 years, has observed as follows:-

“15. It is argued by the counsel for the State as the victim girl was a minor therefore, accused no.2 should have taken due care in finding as to how the victim became pregnant. Fastening the criminal liability on the basis above allegations is too far fetched. Provisions of Section 19 and 21 as stated above put an obligation on the person to inform the relevant authorities inter alia when she or he has knowledge of an offence under the Act has 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 petitioner was not careful enough to find the cause of pregnancy as the victim is only 18 years of age at the time of delivering, but, that would not be translated into criminal liability.

16. In view of the clear provisions of the POCSO Act, it is the duty of the prosecution to prove that the petitioner had a knowledge about this empirical knowledge of a commission of rape on the victim girl by the accused no.1.

.....

19. In the considered opinion of this Court, there is no proper evidence brought on record by



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the prosecution to show that this petitioner/accused no.2 is involved in the commission of the crime in the manner alleged by the prosecution. So to say, I am of the opinion that there is no evidence implicating accused no.2 for the offence under Sections 19 and 21 of the POCSO Act. Based upon is grave suspicion story of the prosecution, cannot be believed. Therefore, the petition filed by the petitioner deserves to be allowed.”

16. The precedents set by the Hon'ble Supreme Court are directly relevant to the present case. As the Hon'ble Apex Court has astutely noted, the petitioner bore no responsibility to verify the victim girl's age or ascertain whether offences had been committed. In light of this, this Court has no hesitation in concluding that the provision of Section 21(1) of the POCSO Act are inapplicable to the petitioner.”

9. The above observations squarely apply to the facts of the instant case. Hence, the prosecution of the petitioner for the offence punishable under Section 21(1) of the POCSO Act is misconceived and is liable to be quashed.

10. Similarly, there is no evidence on record to show that the child of the victim girl was given in adoption with the knowledge of the petitioner. There cannot be any vicarious liability imposed on the petitioner, even assuming that the staff of her hospital had given the child in adoption without following the provisions of the JJ Act. Therefore, the



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prosecution of the petitioner for the offence punishable under Section 80 of the JJ Act would be a futile exercise, and the proceedings against the petitioner cannot be allowed to continue for the said offence. The petitioner is aged about 75 years and cannot be subjected to the ordeal of trial on the basis of such evidence.

11. For all the aforesaid reasons, this Court is inclined to quash the final report as against the petitioner. Accordingly, the impugned final report is quashed insofar as the petitioner is concerned.

12. Accordingly, this Criminal Original Petition is allowed. Consequently, the connected Miscellaneous Petitions are closed.

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Index: Yes/ No

Neutral Citation: Yes / No

Speaking Order/Non Speaking Order

Copy To:

1.The Judge,
Special Court for Exclusive Trial under POSCO Act cases,
Sivagangai.



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2.The Inspector of Police,
AWPS Thiruppathur,
Thiruppathur,
Sivaganga District.

3.The Additional Public Prosecutor,
Madurai Bench of Madras High Court,
Madurai.



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SUNDER MOHAN, J.

JEN

Pre-Delivery Order made
in
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