



Crl.O.P.(MD) No.3748 of 2025

BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

DATED : 20.03.2025

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THE HONOURABLE MR.JUSTICE P.DHANABAL

CRL. OP(MD). No.3748 of 2025

and

Crl.M.P(MD)No.2640 of 2024

S.Muthulakshmi

... Petitioner

Vs.

1. The Inspector of Police
All Women Police Station
Karur District

2. Sathishkumar

... Respondents

PRAYER: Criminal Original Petition filed under Section 528 of BNSS to call for the records relating to the proceedings of the First Information Report in Crime No.13 of 2024 pending on the file of the first respondent police and quash the same in respect of the petitioner/A6 herein.

For Petitioner : Mr.G.Mariappan

For Respondents : Mr.M.Sakthi Kumar
No.1 Government Advocate (Crl. Side)



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ORDER

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This Criminal Original Petition has been filed to quash the First Information Report in Crime No.13 of 2024 on the file of the first respondent police.

2. The case of the prosecution is that the victim girl got pregnant through one Veerasamy. When the victim was studying tenth standard she used to go to house of Veerasamy, at that time the said Veerasamy had committed sexual assault on the victim girl and thereby she got pregnant and gave birth to a female child and thereafter the child died and the same was buried. To that effect the complaint was lodged by the Social Welfare Officer and the first respondent police registered a case in Crime No.13 of 2024 for the offences under Sections 5(j), 5(j)(ii), 6 of Protection of Child from Sexual Offences Act, 2012 and Section 506(i) of IPC. Thereafter during investigation the investigation officer came to know that victim was taken to Virudhunagar and her child was aborted in the hospital where the petitioner was working as doctor . Therefore this petitioner has been included as one of the accused/A6, who is now challenging the pending First Information Report.



3. The learned counsel appearing for the petitioner would submit that the petitioner is working as a Doctor at Virudhunagar and the hospital is a Multi Speciality Hospital. While so one lady was brought to the hospital on 13.07.2023 claiming to be the daughter of Ponnusamy having residence at Kanthan Street, Sundaravalli Match Office Near Virudhunagar was brought by her mother Malliga and they reported that the victim was 20 years old and admitted in the hospital. She was said to be 2 ½ months pregnant and she was found with bleedings and they stated that she had taken pills for abortion and the treatment was given to her with the consent of the patient and her mother for D and C Procedures. She was given IV sedation and conception curetted out and thereafter she was discharged on 13.07.2023 at 7.30 p.m., Since the patient and her mother stated that the victim is 20 years old the petitioner had decided to go for D and C procedures. Apart from that they have no knowledge about the case and they have not suppressed anything and further the appearance of the patient also seems to be more than 20 years. There is no any offence committed by the petitioner . Further the investigation officer included the petitioner as one of the accused /A6 in this case. Therefore she has filed this petition to quash the First Information Report as against this petitioner.



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4. The learned Government Advocate(Crl.Side) appearing for the first respondent would submit that based on the complaint given by the defacto complainant/second respondent the first respondent registered a case in Crime No.13 of 2024 for the offences under Sections 5(j), 5(j)(ii), 6 of Protection of Child from Sexual Offences Act, 2012 and Section 506(i) of IPC. Thereafter during investigation they came to know that the victim girl aborted her child in the hospital of the petitioner and this petitioner only aborted the child and the petitioner has not verified the age and other particulars at the time of treating the victim girl. Therefore she was also included as one of the accused in this case and the case is under investigation and at this stage the petition is liable to be dismissed. He would further submit that after elaborate investigation they filed charge sheet before the POCSO Court, Karur .

5. Heard both sides and perused the materials available on record.

6. In this case it is an admitted fact that the petitioner is not named accused in the First Information Report and the First Information Report has been registered against one Veersamy. During investigation the



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Investigation Officer found that this petitioner only aborted the child of the victim. At the time of abortion, the petitioner has not verified the age of the victim and the same was not informed to the concerned authorities under the POCSO Act, therefore this petitioner also included as one of the accused.

7. This Court carefully perused all the materials. The First Information Report has been registered against one Veerasamy and thereafter the name of this petitioner has been included as one of the accused since she gave treatment to the victim. The main allegation against the petitioner is that she has not verified the age of the victim and not informed the concerned authorities under the POSCO Act about the treatment given to the victim. In this case according to the petitioner the victim and her mother represented that the victim is aged about more than 20 years. Since the victim was admitted in the hospital with bleeding it is the duty of the doctor to treat her to save the life of the victim. Now the complaint was given by the Social Welfare Officer. Neither the victim nor the guardians of the victim gave complaint. The competent person to speak about the occurrence is the victim but no complaint was lodged by the victim. Only because the petitioner not informed the concerned



authorities about the abortion she cannot be prosecuted under the POCSO Act, when the victim appears to be aged 20 years. Even as per the investigation officer in the inclusion report while including the petitioner as one of the accused has stated that the petitioner has not verified the age of the victim. Though it is the duty of the doctor to give treatment to the patients after verifying their identity. When the victim comes with bleeding and she also had already taken pills to abort it is the duty of the doctor to save the life of the victim. When the victim as well as the mother stated that the victim is aged about 20 years the provision under the POCSO Act would not attract. There are no materials that the petitioner had knowledge that the victim was a child on the date of treatment. Without knowledge to the petitioner about the age of the victim she cannot be roped in to this case.

8. To attract the offence under Section 312 of IPC there are no materials available as against the petitioner. Even as per the prosecution records with the consent of the patient and her mother the treatment was given. Since there are no ingredients to constitute the offence as against the petitioner the petitioner cannot be included in this case merely she has done abortion. Since there are no materials as against the petitioner to



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constitute the offence under the POCSO Act, filing of charge sheet is no bar to quash the proceedings. Therefore the pending Information Report is liable to be quashed.

9. Accordingly the Criminal Original Petition stands allowed and the First Information Report in Crime No.13 of 2024 on the file of the first respondent police. Consequently connected miscellaneous petition stands closed.

20.03.2025

Internet :Yes
Index :Yes/No
NCC :Yes/No
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To

1. The Inspector of Police
All Women Police Station
Karur District
- 2.The Additional Public Prosecutor,
Madurai Bench of Madras High Court,
Madurai.



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P.DHANABAL, J.

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