



Crl.O.P.(MD)No.20668 of 2024

BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

DATED : 07.11.2025

CORAM

THE HONOURABLE MR.JUSTICE SUNDER MOHAN

Crl.O.P.(MD).No.20668 of 2024

1.Mohamed Rabeek

2.Pandi Selvi

... Petitioners / Accused No. 3 & 4

-Vs-

1.The State of Tamil Nadu,
Rep by the Inspector of Police,
AW Police Station, Aranthangi,
Pudukottai District.
Cr.No.2 of 2024.

... 1st Respondent / Complainant

2.Sasikala

... 2nd Respondent / Defacto Complainant

Prayer: Criminal Original Petition is filed under Section 482 of Cr.P.C., To call for the records pertaining to alteration to FIR vide report dt 02.08.2024 in Crime No.2 of 2024 dated 22.02.2024 on the file of the respondent police and quash the altered FIR in respect of the petitioners alone.

For Petitioner : Mr.N.Anantha Padmanabhan,
Senior Counsel
for M/s.APN Law Associates

For R1 : Mr.K.Sanjai Gandhi
Government Advocate

For R2 : No Appearance



Crl.O.P.(MD)No.20668 of 2024

ORDER

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The petitioner seeks to quash the FIR in Crime No.2 of 2024, dated 22.02.2024 on the file of the respondent Police, registered for the offences punishable under Sections 5(1), 5(j)(ii) and 6(1) of POCSO Act, 2012 @ Sections 5(1), 5(j)(ii) r/w. 17, 21(2), 6(1) of POCSO Amendment Act, 2019.

2. The petitioners are arrayed as A3 and A4. The first petitioner/A3 is running a hospital by the name M.K.Hospital and the second petitioner is a Nurse working in the said hospital. The allegations in the impugned FIR and the subsequent alteration report are that the victim girl, who was born on 30.05.2007, had sexual intercourse with one of the accused in the case, became pregnant and was admitted in the hospital of the first petitioner for delivery; that the first petitioner knowing fully that the victim girl was a minor, had treated her, without making entries in the hospital register and had not informed the Police; that the second petitioner had attended the delivery of the child with the knowledge that the victim girl, who came for the delivery, was minor and had not informed the Police; and that therefore, the petitioners had abetted the commission of the aforesaid offences.



Crl.O.P.(MD)No.20668 of 2024

3. The learned Senior Counsel for the petitioners would vehemently submit that there is no reference to the hospital, where the victim girl delivered the child; that neither the first petitioner nor the second petitioner could be attributed with the knowledge of the age of the victim girl, as the records submitted by her when she came for delivery, namely, scanned reports and other lab results indicated that her age is 20; that when the victim girl came to the hospital at the advanced stage of pregnancy, the hospital was bound to attend to the delivery; that therefore, they cannot be prosecuted for the aforesaid offences; that in any case, it is not the case of the prosecution that the petitioners had instigated or engaged in conspiracy or otherwise aided the offence to charge them for the offence of abetment; and that therefore, the impugned prosecution is liable to be quashed.

4. Though the second respondent has received the notice, none has entered appearance.

5.(i) The learned Government Advocate (Crl.Side) *per contra*, would submit that the first petitioner is the owner of the hospital; that he had not made any entries in the hospital records for treating the victim girl; that hence he was aware that the victim girl was a minor; that the first petitioner further had taken



Crl.O.P.(MD)No.20668 of 2024

the custody of the newborn child on the promise of bringing up the child; that he had handed over the the child to the grandmother of the victim girl after the complaint was filed; and that all these factors would prove the culpability of the first petitioner.

(ii) The learned Government Advocate (Crl.Side) further submitted that the 2nd petitioner was working as a nurse in the hospital and was also aware of the age of the victim girl and hence, she is also liable to be prosecuted. He would further submit that the final report has already been filed which is taken on file in Spl.S.C.No.53 of 2024 by the learned Mahila Judge, Pudukkottai for the offence under Sections 342, 363 and 506(i) of the IPC and Sections 5(i), 5(j)(ii), 6(1), 21(2) and 17 of the Protection of Children from Sexual Offences Act, 2012 (in short, 'the **POCSO Act**').

6. As submitted by the learned senior counsel it is seen that the final report has been filed in violation of the earlier directions of this Court on 10.12.2024, not to file the final report. While leaving it open to the petitioners to seek appropriate remedy, if there is any willful disobedience, this Court is inclined to examine whether the final report which was filed pursuant to the investigation in the impugned FIR is liable to be quashed. The final report has



Crl.O.P.(MD)No.20668 of 2024

been filed before this Court.

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7. It is the case of the prosecution in the final report that the victim girl had sexual intercourse with two accused persons (i.e.) A1 and A2. As stated above, the allegation is that after she became pregnant she went to the hospital belonging to the first petitioner (A3) for delivery. It is also not in dispute that she was taking treatment in a different hospital during her pregnancy and had also taken a scan. The scan reports admittedly shows that the girl was aged twenty years. Further, there is force in the submission made by the learned senior counsel for the petitioners that the hospital authorities are bound to attend to the victim girl when she came for the delivery of the child. Therefore, the petitioners cannot be faulted for treating the victim girl.

8. The act of treating the victim girl and attending to the delivery cannot by any stretch of imagination amount to the abetment of the offences under the POCSO Act, even assuming that the petitioners were aware of the victim's age. In order to establish abetment, the prosecution is bound to show that the petitioners instigated or engaged in conspiracy or otherwise aided the commission of the offences. There is no such averment in the final report. The petitioners had only treated the victim girl when she came for delivery.



Crl.O.P.(MD)No.20668 of 2024

Therefore, the prosecution of the petitioners under Section 17 of the POCSO Act is misconceived.

9. However, it is seen that it is the further case of the prosecution that the first petitioner as the owner of the hospital did not make entries in the hospital records for having treated the victim girl, which proves his guilt and that he had also taken custody of the new born child with the promise to bring up the child. Therefore, this Court is of the view that the question as to whether the act of the first petitioner in not making entries in the hospital register as regards the treatment and his taking away the new born child and not informing the police, would constitute the offence under Section 21(2) of the POCSO Act, has to be adjudicated only by the trial Court. Therefore, while holding that the petitioners would not be guilty of the offence of abetment, this Court is not inclined to quash the final report as against the first petitioner as it is for the trial Court to decide whether any other offence has been made out, as against the first petitioner.

10. As against the second petitioner, as stated above, the records produced by the victim girl when she came for treatment suggests that she is aged about 20 years. The second petitioner/Nurse cannot be found fault for



Crl.O.P.(MD)No.20668 of 2024

treating the victim girl and attending to the delivery. She could not have known the age of the victim girl in any case. The treatment was taken at the hospital. Hence, she was under no obligation to inform the authorities concerned, as the institution namely the hospital was under an obligation to report the offence, even assuming that the hospital authorities knew that the victim was a minor. Hence the second petitioner cannot be prosecuted even for the offence under Section 21 of the POCSO Act. Therefore, this Court is the view that the allegations as regards the second petitioner would not constitute any of the offences charged against her.

11. Hence, the FIR and the consequential final report is quashed in so far as the second petitioner alone is concerned. In so far as the first petitioner is concerned, this petition is dismissed with the above observations. The Criminal Original Petition stands partly allowed.

07.11.2025

NCC : Yes / No
Index : Yes / No
Internet : Yes/ No
Indu/ars



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Crl.O.P.(MD)No.20668 of 2024

SUNDER MOHAN, J.

Indu/ars

To

- 1.The Inspector of Police,
AW Police Station, Aranthangi,
Pudukottai District.
- 2.The Additional Public Prosecutor,
Madurai Bench of Madras High Court,
Madurai.

Crl.O.P(MD).No.20668 of 2024

07.11.2025