



Crl.O.P.(MD)No.1104 of 2025

BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

DATED: 24.01.2025

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THE HON'BLE MR.JUSTICE M.NIRMAL KUMAR

Crl.O.P.(MD)No.1104 of 2025

Parasakthi

... Petitioner

Vs.

1.The State of Tamil Nadu, Rep. by
The Superintendent of Police,
Thoothukudi District,
Thoothukudi.

2.The Inspector of Police,
All Women Police Station,
Thoothukudi.

... Respondents

PRAYER : Criminal Original Petition filed under Section 528 of the B.N.S.S., to call for the records with regard to the final report in Spl.S.C.No.84 of 2020, on the file of the Special Court for Exclusive Trial of Cases under the POCSO Act, Thoothukudi and set aside the same and consequently, direct the respondent to further investigate in Crime No.42 of 2019, pending on the file of the second respondent herein and file final report afresh, within the period stipulated by this Court.



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For Petitioner : A.Parasakthi
Party-in-Person

For R1 and R2 : Mr.A.Thiruvadi Kumar
Additional Public Prosecutor

ORDER

The petitioner, being the de-facto complainant, has filed this Criminal Original Petition seeking to set aside the charge sheet in Spl.S.C.No.84 of 2020, pending before the Special Court for Exclusive Trial of Cases under the POCSO Act, Thoothukudi. The petitioner further seeks a direction to the second respondent Police to conduct further investigation in Crime No.42 of 2019 and file a fresh final report.

2. The petitioner/de-facto complainant submits that she is the mother of the victim child. She was married to Anbu Mani on 04.03.2012, and after marriage, both lived in Amman Kovil Street, Mullakadu, Thoothukudi District. The couple has two children. On 27.12.2019, during the Pongal festival celebration, a dance programme was held in the Village just opposite the petitioner's house. The petitioner's daughter (aged 3 ½ years) and son (aged 2 ½ years) went to witness the programme, while the petitioner stayed at home due to a



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severe headache. At around 08:30 p.m., the petitioner's son returned home crying and searching for his sister. He went back to the crowd, and both children returned home at approximately 08:45 p.m. The daughter was silent, while the son continued to cry. Later, at about 09:30 p.m., the petitioner's husband took both children out for food, returning home at 11:45 p.m.

3. On 28.12.2019, at around 09:30 a.m., when the petitioner's daughter went out to urinate, she discharged a red-colored substance resembling jelly. The petitioner collected it in a cloth to show to the doctor. Upon questioning, the daughter stated that two boys were near her and had touched her back. The petitioner then took her daughter to Annai Saradha Hospital, where Dr.Kumaran examined the girl and confirmed the sexual assault. He advised the petitioner to take her daughter to Dr.Ramya at the One Stop Crisis Center. Dr.Kumaran had already informed Dr.Ramya about the condition of the victim child.

4. Dr.Ramya further examined the petitioner's daughter and confirmed that she had been sexually assaulted by two unknown persons



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near the petitioner's house. Later, the Sub-Inspector of Police at Muthaiahpuram Police Station informed the petitioner that Thangakumar had surrendered, admitting his guilt. The petitioner was advised to file a complaint at the All Women Police Station, Thoothukudi. Hence, on 29.12.2019, the petitioner lodged the complaint. After the investigation, a charge sheet was filed.

5. The petitioner contends that the medical report in this case indicates that ejaculation occurred outside the body orifice, and it was also recorded that there was vaginal bleeding, suggesting an incident of sexual violence. Further, the report notes that two known persons in the crowd committed the sexual assault. However, these factors were not properly considered during the investigation, and only one accused is being prosecuted. The petitioner also states that certain discharges collected from her daughter were not examined properly. Moreover, the petitioner faced difficulties in registering the F.I.R., being made to run from pillar to post, and it was only two days later that the F.I.R. was eventually registered. The petitioner further submits that the investigation was not conducted in accordance with the established rules.



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6. The petitioner further submits that the statement of the victim child was not recorded at her home, and the F.I.R. was not registered within 24 hours as required. Further, the victim child's statement should have been recorded within 30 days of receiving information, but she was only produced on 30.01.2020. The trial in this case was supposed to be completed within one year, but it is still pending. Furthermore, the victim child, who was about 3 ½ years old, had her statement recorded by a Magistrate, not by a lady Magistrate as required. These violations of procedure could provide grounds for the accused to evade justice.

7. The petitioner further submits that after the initial incident, the petitioner's husband, her father-in-law, and others sexually assaulted the victim child by injecting substances into her body. In response, the petitioner lodged a complaint against her husband, leading to the registration of a case in Crime No.43 of 2021 under Sections 5(m), 5(n), and 6 of the Protection of Children from Sexual Offences Act, 2012. A charge sheet has been filed in that case, and the petitioner's husband is now facing trial in Spl.S.C.No.78 of 2022. These facts have been brought to the attention of the trial Court, investigating officers, and superior



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police officers, but no action has been taken. Hence, the petitioner has filed the above petition.

8. The learned Additional Public Prosecutor, on the other hand, submitted that the petitioner has been altering her statement at each stage, providing elaborate statements and making allegations without sufficient evidence. The petitioner has also lodged a complaint against her husband, for which a case has been registered, and the trial is now in progress.

9. The learned Additional Public Prosecutor submits that as far as this case is concerned, apart from the petitioner's exaggerated statement, the victim child's statement is consistent with the medical records, which contradict the petitioner's allegations. Both the medical records and the doctor's statement oppose the petitioner's version of events. Further, the petitioner is one of the reasons for the delay in the trial. There is also matrimonial discord between the petitioner and her husband, along with disputes involving her in-laws and other relatives. The petitioner's representation was received but found to be contrary to the facts and



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evidence, and no action has been taken. The case is now at the penultimate stage, posted for judgment on 24.01.2025 (today). It appears that the petitioner seeks to prolong the proceedings by making wild allegations against her husband's family. A similar representation was made earlier, and upon finding that the evidence, the victim child's statements, and the medical records contradicted the petitioner's version, her representation was not acted upon.

10. The learned Additional Public Prosecutor further submits that the petitioner appears to be attempting to merge the evidence and materials from another case, namely, Spl.S.C.No.78 of 2022, with the present case. It seems that she is trying to connect both cases, which is likely the reason for filing this petition and therefore, learned Additional Public Prosecutor prayed for dismissal of the petition.

11. Considering the above submissions and upon perusal of the materials, including the 164 Cr.P.C. statement of the victim child before the learned Magistrate, it is evident that the victim child did not provide the statement as projected by the petitioner. The petitioner, in her



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complaint and initial statements, did not mention the current allegations she is now making. Furthermore, the petitioner has filed a separate case against her husband for penetrative sexual assault on the victim child, which was registered at a later time.

12. Due to matrimonial discord, the petitioner has been living with her parents along with the children, and there have been ongoing issues regarding visitation rights and complaints have been made against her husband and in-laws in this regard.

13. As far as this case is concerned, on perusing the complaint for further investigation, the statement, materials, and witnesses' depositions before the trial Court, it is clear that the investigation was conducted properly. Witnesses have testified accordingly, and the petitioner's allegations, which are recent and unsupported by any materials, appear to be unsubstantiated.

14. The case is now pending judgment, scheduled for **24.01.2025** (today). In light of these circumstances, this Court finds no merit in



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entertaining the Criminal Original Petition. Therefore, the Criminal Original Petition is dismissed, and the trial Court is directed to pass its judgment.

24.01.2025

NCC : Yes / No

Index : Yes / No

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Note:- Issue order copy on 24.01.2025.

To

- 1.The Judge,
Special Court for Exclusive Trial of
Cases under the POCSO Act,
Thoothukudi.
- 2.The Superintendent of Police,
Thoothukudi District,
Thoothukudi.
- 3.The Inspector of Police,
All Women Police Station,
Thoothukudi.
- 4.The Additional Public Prosecutor,
Madurai Bench of Madras High Court,
Madurai.



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M.NIRMAL KUMAR, J.

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Order made in
Crl.O.P.(MD)No.1104 of 2025

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