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BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

Reserved on: 30.10.2026

Pronounced on : 04.11.2026

CORAM

THE HON'BLE MR. JUSTICE R.VIJAYAKUMAR

Crl.O.P(MD) No. 24724 of 2026

CNR:{HCMD011518382026}

Case QR

and

CRL M.P(MD)Nos.23073 & 23074 of 2026

S.Murugan

..Petitioner(s)/sole Accused

Vs

1. State of Tamil Nadu,
   Rep by the Inspector Of Police,
   All Women Police Station,
   Papanasam,
   Thanjavur District.
   (Crime No. 19 of 2025) ...1st Respondent/Complainant

2. xxxx,
   xxxx,
   xxxx. ...2nd Respondent/Defacto Complainant

PRAYER: Criminal Original Petition is filed under Section 528 of BNSS, 2023, to call for the records pertaining to the impugned charge sheet in Spl.S.C.No.124 of 2026, on the file of the Special Court under the POCSO Act, Thanjavur, and consequently quash the same as illegal.

For Petitioner(s) :M/s.K.P.S.Palanivelrajan, Senior Counsel for M/s.K.PRABAKARAN

For Respondent(s) : M/s.V.SHATHURTHI RAJA, GOVT. ADVOCATE (CRL. SIDE) FOR R1

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ORDER

This Criminal Original Petition has been filed by the petitioner, who stands arraigned as the sole accused in Spl.S.C.No.124 of 2026 on the file of the Special Court under the POCSO Act, Thanjavur, seeking to quash the final report filed against him for the offences punishable under Sections 7, 8, 11(i), 11(iv) and 12 of the Protection of Children from Sexual Offences Act, 2012 (hereinafter referred to as "the POCSO Act") and Section 351(1) of the Bharatiya Nyaya Sanhita, 2023 (hereinafter referred to as "the BNS").

Factual Matrix:

2. The petitioner is employed as a teacher in a Government School and also handles Physics classes as a part-time teacher in a tuition centre. The second respondent/victim child, who was then aged about 16 years and was studying in the 12th standard, was attending classes at the said tuition centre. The petitioner hails from the same village as the victim child and, as per his own pleadings, is related to her family.

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3. The case of the prosecution, in brief, is as follows:- On 06.12.2025, at the tuition centre, the petitioner, on finding the victim child alone, is stated to have asked her whether she was in love, having seen her talking to a boy. He is further stated to have asked her what she would do if she became pregnant. After the class was over at about 07.45 p.m., when the victim child was waiting for her bus, the petitioner is alleged to have asked her to accompany him on his two-wheeler. When she declined, the petitioner is alleged to have threatened that he would inform her father that she had been talking inappropriately with a boy. Out of fear, the victim child boarded the vehicle. Instead of taking the direct route, the petitioner is alleged to have taken her through a deserted route. During the journey, the petitioner is alleged to have asked her to place her hand on him, told her that she was beautiful, and asked her why nobody had fallen in love with her. He is also alleged to have proposed that they remain in contact and offered to conduct a special class for her alone on the following Saturday. It is further alleged that, while riding the vehicle with one hand, the petitioner held the hand of the victim child with the other, and when she pulled her hand away, he held it once again

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and asked her whether she liked it. Thereafter, the petitioner is alleged to have dropped her near her house and instructed her not to disclose the incident to anyone.

4. The victim child disclosed the incident to her class teacher on 08.12.2025, who, in turn, informed the Headmistress of the school. The Headmistress reported the matter through the Childline on 09.12.2025, and based on the same, an FIR came to be registered in Crime No.19 of 2025 on 11.12.2025. On completion of investigation, the first respondent filed a final report on 08.01.2026, which has been taken on file by the Special Court in Spl.S.C.No.124 of 2026. Challenging the same, the present petition has been filed.

5. The learned Senior Counsel appearing for the petitioner would contend that the allegations are vague and, taken at their face value, at best disclose a mere touch of the hand, bereft of any sexual intent. According to the learned Senior Counsel, the petitioner held the hand of the victim child only to steady her while riding on a road full of potholes,

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and such an act, having been done in good faith, would fall within the ambit of Section 92 of the IPC. The words attributed to the petitioner were nothing but advice tendered by a teacher, who is also a relative. It is his further submission that the complaint is an offshoot of a family dispute arising out of the petitioner's inter-caste marriage with a relative of the second respondent. He would further submit that the interval between 06.12.2025 and 11.12.2025 was utilised at the school to give shape to the complaint, and that the ingredients of Section 351(1) of the BNS are not made out.

6. The learned Senior Counsel would further contend that a false complaint has been foisted against the petitioner. In support of the said contention, reliance was placed upon the order of the High Court of Kerala at Ernakulam in Aravind Vs. State of Kerala (Bail Appl. No.5168 of 2024, dated 07.08.2024), wherein the accused therein had been arrested on the basis of a false complaint lodged by a minor girl out of an ulterior motive. It was further contended that the FIR has been registered mechanically, without any proper enquiry.

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7. The learned Senior Counsel would also submit that the ingredients of Section 7 of the POCSO Act are not attracted, since a mere touch of the hand without sexual intent cannot be construed as sexual assault as contemplated under the said provision. He would further submit that Sections 11(i) and 11(iv) of the POCSO Act are also not attracted, as there is no allegation whatsoever that the petitioner uttered any word or made any gesture with sexual intent. According to him, Section 351(1) of the BNS has been invoked only with an ulterior motive, though its ingredients are not made out.

8. Per contra, the learned Government Advocate (Crl. Side) appearing for the first respondent would submit that this is not a case of any love affair, and that the victim child accompanied the petitioner on his two-wheeler only on account of the threat held out by him. Whether the petitioner committed sexual assault or not is a matter which can be decided only during the trial. The act of the petitioner in holding the hands of the victim child while travelling is not in dispute. According to

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the learned Government Advocate, the words uttered by the petitioner, the events which preceded the journey on the two-wheeler, and the words uttered while dropping the victim child would clearly reveal the sexual intent of the petitioner. Hence, he prayed for dismissal of the petition.

9. This Court has given its anxious consideration to the submissions made on either side and perused the materials available on record.

Discussion:-

10. The physical contact made by the petitioner while taking the victim child on his two-wheeler is not in dispute. The second limb of Section 7 of the POCSO Act takes within its sweep any act done with sexual intent which involves physical contact without penetration. The petitioner himself has pleaded that he held the hand of the victim child while she was on his vehicle. Therefore, the only question that arises for consideration is whether the said act was done with sexual intent. The same is essentially a question of fact, which has to be gathered from the surrounding circumstances.

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11. A perusal of the statement of the victim child recorded before the learned Judicial Magistrate reveals the following circumstances:-

a) the victim child had declined the ride offered by the petitioner, but was made to board the vehicle under a threat to her reputation;

b) the occurrence took place after 07.45 p.m., on a deserted route chosen by the petitioner instead of the direct road;

c) the act was repeated after she had withdrawn her hand, and was accompanied by a question as to whether she liked it;

d) the act was preceded by remarks about love and pregnancy and an insistence that she place her hand on him, and was accompanied by remarks about her beauty, a proposal to remain in contact, and an offer to conduct a special class for her alone on the following Saturday; and

e) the act was followed by an instruction not to disclose the incident to anyone and, subsequently, by pressure from the petitioner's relatives to withdraw the complaint.

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12. These are precisely the circumstances from which sexual intent may be inferred.

13. At this juncture, it is relevant to refer to the judgment of the Hon'ble Supreme Court in Attorney General for India Vs. Satish and another, reported in (2022) 5 SCC 545, wherein, at paragraph No.82, it has been held as follows:-

> *"82. The circumstances in which touch or physical contact occurs would be determinative of whether it is motivated by "sexual intent". There could be a good explanation for such physical contact which include the nature of the relationship between the child and the offender, the length of the contact, its purposefulness; also, if there was a legitimate non-sexual purpose for the contact. Also relevant is where it takes place and the conduct of the offender before and after such contact. In this regard, it would be useful to always keep in mind that "sexual intent" is not defined, but fact-dependent as the Explanation to Section 11 specifies."*

14. Insofar as the invocation of Sections 11(i) and 12 of the POCSO Act is concerned, the offence of sexual harassment is committed when a person, with sexual intent, utters any word intending that such word shall be heard by the child. The said offence does not depend upon

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physical contact. The words attributed to the petitioner, as set out above, prima facie fall within the ambit of the said provision. Whether Section 11(iv) of the POCSO Act is also attracted is a matter for the Special Court to decide at the stage of framing of charges.

15. Insofar as the invocation of Section 351(1) of the BNS is concerned, the petitioner is alleged to have threatened to inform the father of the victim child that she had been talking improperly with a boy, unless she rode with him. The same amounts to a threat of injury to her reputation, made with intent to cause her to do an act which she was not legally bound to do. The victim child has stated that she boarded the vehicle out of fear. Thus, the ingredients of the said offence are disclosed on the face of the record.

16. The plea of the petitioner that he held the hand of the victim child in good faith, only to steady her on a bad road, does not find a place anywhere in the records. It is a matter of defence, the burden of proving which lies upon the accused under Section 108 of the Bharatiya Sakshya Adhiniyam, 2023, and the same can be established only by letting in

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evidence during the trial. The allegation of a family dispute arising out of the petitioner's marriage is unparticularised. In any event, where the allegations disclose the commission of an offence, the motive of the informant cannot be a ground to quash the proceedings. It is also pertinent to note that the complaint was set in motion by the school authorities, who were statutorily bound to report the same under Section 19 of the POCSO Act. Therefore, the alleged motive on the part of the family of the victim child cannot be a ground to quash the final report. The interval of five days between the occurrence and the registration of the FIR stands explained on record, and in any event, the same is a matter to be appreciated during the trial.

17. In view of the foregoing discussion, this Court is of the considered view that a prima facie case has been made out against the petitioner, warranting him to face the trial. It is made clear that the observations made in this order are only for the purpose of disposal of this petition, and the Special Court shall decide the case on the basis of

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the evidence let in before it, uninfluenced by any of the observations made herein.

Conclusion:-

18. In the result, this Criminal Original Petition stands dismissed. Consequently, the connected Miscellaneous Petitions are closed.

04.11.2026

Index: Yes/No
Speaking/Non-speaking order
Neutral Citation: Yes/No

RJR

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To

1. The learned Judge,
   The Special Court under the POCSO Act,
   Thanjavur.

2. The Inspector of Police,
   All Women Police Station,
   Papanasam,
   Thanjavur District.

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

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R.VIJAYAKUMAR, J.

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Pre delivery order made in
CRL OP(MD) No. 24724 of 2026

04.11.2026

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