



IN THE HIGH COURT OF JUDICATURE AT MADRAS

RESERVED ON : 03.01.2025

PRONOUNCED ON : 09.01.2025

CORAM

THE HONOURABLE MR.JUSTICE SUNDER MOHAN

Crl.R.C.No.2008 of 2024

N.Krishnasamy ... Petitioner/Accused

Vs.

The State rep. by
The Inspector of Police,
Nettapakkam Police Station,
Pondicherry.
(Crime No.18 of 2024) ... Respondent/Complainant

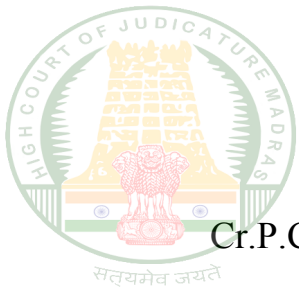
PRAYER: Criminal Revision Case filed under Sections 397 and 401 of Cr.P.C. or 438 r/w 442 of BNSS to set aside the order passed in Crl.M.P.No.300 of 2024 in Spl.SC.No.23 of 2024 by the learned Sessions Judge, Fast Track Court exclusively to deal with offences under the POCSO Act at Puducherry, dated 04.10.2024 and allow the above Criminal Revision.

For Petitioner : Mr.R.Balavijayan

For Respondents : Mr.K.S.Mohandass
Public Prosecutor (Puducherry)

ORDER

The Criminal Revision Case challenges the order dated 04.10.2024 dismissing the petitioner's application filed under Section 227 of the



Cr.P.C., for discharge before the trial Court.

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2. The respondent herein had filed a final report against the petitioner alleging that the petitioner was working as a Tamil Teacher in a school; that the victim was studying in class X in the said school; that on 22.02.2024, during evening hours at the Government School, the petitioner induced the victim to go in his car to a Public Health Centre for treatment of an injury and on the way, with sexual intent, he showed pornographic videos to the victim and compelled her to watch it and caused further harassment by asking her for her waist size and that he would buy her a new mobile phone. The final report thus had stated that the petitioner had committed the offence under Section 11 (i) of the POCSO Act punishable under Section 12 of the POCSO Act.

3. The petitioner sought for discharge before the trial Court mainly on the ground that the victim herself had written a letter to the defacto complainant, the Headmaster of the school that she had given a false complaint against the petitioner since he had reprimanded her and her lover; that the victim had also confirmed the said fact in the statement made to the Magistrate under Section 164 of the Cr.P.C.; that the victim's



mother and the defacto complainant had also during investigation stated that they came to know that the victim had lodged a false complaint; and that inspite of the said fact the respondent had erroneously filed a final report. The respondent opposed the said prayer for discharge.

4. The learned trial Judge after recording the fact that the victim had stated before the learned Magistrate that she had given a false complaint against the petitioner, had observed that the discrepancies between the complaint and the statement under Section 164 of the Cr.P.C., cannot be a ground for discharge and relied upon the judgment of the Hon'ble Supreme Court in ***Hazrat Deen v. The State of Uttarpradesh and another*** (SLP (Crl.) No.9552 of 2021 dated 06.01.2022); and that the question as to whether the victim has to be believed cannot be considered at this stage and dismissed the discharge petition.

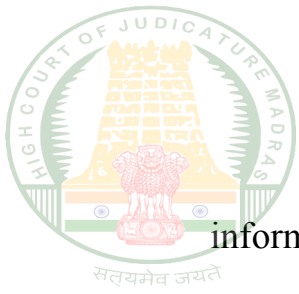
5. The learned counsel for the petitioner reiterated the submissions made before the trial Court, which is extracted above and prayed for the discharge of the petitioner.



6. The learned Public Prosecutor (Puducherry), opposed the revision on the ground that the victim was compelled to make a statement that her complaint is false; that therefore, only a trial would establish either the guilt or innocence of the petitioner; and that it is premature to consider the said issue at this stage and prayed for dismissal of the revision.

7. Considered the submissions made by the learned counsel on either side.

8. The fact that the victim had made a statement under Section 164 of the Cr.P.C., before the learned Magistrate that she had lodged a false complaint against the petitioner, since she was upset with the fact that the petitioner had opposed her love affair with her boy friend, is not in dispute. That apart, the alleged occurrence is said to have taken place on 22.02.2024 and the victim had informed about the incident to her friend one Dharshini who inturn informed to one Rani, the teacher working in the school about the incident and at the instance of the said teacher, she had made a written complaint, which was handed over to the Headmaster of the school (defacto complainant). Thereafter, on the same day, she had



informed the Headmaster not to take any action and also handed over a letter on 26.02.2024 to the Headmaster in-charge one Saravanan that the complaint lodged by her was false.

9. Though the learned Judge had not accepted these letters stating that the handwriting in the letters differed, this Court is of the view that the contents of the letter is confirmed by the statement made by the victim before the learned Magistrate under Section 164 of the Cr.P.C. That apart the statements made by the victim, her mother and the headmaster and the defacto complainant to the investigating officer would all confirm that the victim was upset with the petitioner since he was an hindrance to her love affair with her boy friend and hence she had made a false complaint against the petitioner.

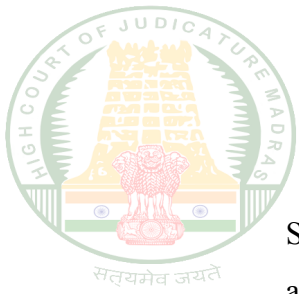
10. The respondent in the counter affidavit before the trial Court has admitted that during the course of investigation, the victim and the other witnesses viz., the defacto complainant and the mother of the victim have also stated that the complaint against the petitioner was false. The respondent had reiterated the said averments in the counter filed before this Court. The relevant portion of the counter filed by the respondent before this Court reads as follows:



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“Further, in between 16:30 hrs and 18:00 hrs as per the choice of the minor girl xxxx, I examined her at the residence of her uncle Mahadevan, located at Nadunayagapuram and recorded her 161 Cr.P.C statement in the presence of her mother Tmt. Manjula with the help of Woman SGSI Chandra. The same was videographed by the Police Videographer. In her 161 Cr.P.C statement, the girl xxxx has stated that she was in love with her fellow student Ranjan when she was studying in the 9th standard. As their love matter came to the knowledge of the school Tamil Teacher Krishnasamy, he reported the same to the school Head Master, who in turn called both the girl and the boy and reprimanded them. Since then, the boy broke up his love with her. So, on 21.02.2024, the girl cut off her own hand with a blade due to her anger towards her boyfriend Ranjan. With the permission of the school headmaster, the Tamil teacher Krishnasamy and a woman teacher Manjula brought her to PHC, Nettapakkam, and gave treatment for the injury sustained by her. Further, the next day (22.02.2024), as per her request, the Tamil teacher, after special class in the evening hours, took her to the same hospital in his car, and after treatment, he dropped the girl at her house at around 18:30 hrs. Therefore, the girl had falsely accused her Tamil Teacher of sexual harassment on the pretext that he had taken the girl student alone in his car, who she held responsible for her love break.

It is further submitted that on 21.03.2024, I went to Govt High School, Kalmandapam, Puducherry, along with SGSI Chandra, WPC 3626 Nathiya of Nettapakkam PS, and one NGO worker, Tmt. Pushpavalli of Karunalayam, Nettapakkam. I examined the minor girls Subadin (15 yrs) and Dheekshika (15 yrs) and recorded their statements in the presence of the NGO worker Pushpavalli with the help of WSGSI Chandra, WPC 3676. At that time, the minor girl's school teachers were also present. Then, I examined the above school teachers Rani, Jebin, and Manjula and recorded their statements. Afterward, I sent a requisition letter to the



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SP(West), Puducherry, to obtain the CDR particulars in respect of the accused Krishnasamy's IMEI number (860929065940594) to locate the accused person. Further, on 22.03.2024, as per the order of the Hon'ble Special Judge (Under POCSO Act), Puducherry, 164 Cr.P.C statement was recorded by the Hon'ble JM-II, Pondicherry, and the copy of the 164 Cr.P.C statement of the victim girl xxxx was received from this Hon'ble court. In her statement, she stated that she falsely reported that her Tamil teacher Krishnasamy was sexually harassing her out of anger for preventing her from falling in love with Ranjan. "She was not sexually harassed by the teacher Krishnasamy."

11. In the light of such material, this Court is of the view that the Court below ought to have seen that there are no sufficient grounds for proceeding against the petitioner. This is not a case where there is a contradiction in the FIR and in the statement under Section 164 of the Cr.P.C., wherein the Hon'ble Supreme Court in *Hazrat Deen's case* [cited supra] had held that the defence of the accused that the case is false has to be gone into only during trial. This is a case where the victim had not only given letters withdrawing her complaint even before the registration of the FIR on 13.03.2024, she had also confirmed the said fact in her statement before the learned Magistrate and in her statement given during investigation to the respondent. The defacto complainant and the mother of the victim have also reiterated that the



complaint was false. In such circumstances, the trial would only be an empty formality and the petitioner cannot be subjected to the ordeal of trial.

12. Therefore, this Court is of the view that the impugned order dismissing the petitioner's request for discharge cannot be sustained and therefore, the order dated 04.10.2024 passed in Crl.M.P.No.300 of 2024 in Spl.SC.No.23 of 2024 by the learned Sessions Judge, Fast Track Court exclusively to deal with offences under the POCSO Act at Puducherry, is set aside and consequently, the petitioner is discharged from Spl.SC.No.23 of 2024 on the file of the learned Sessions Judge Fast Track Court exclusively to deal with offences under the POCSO Act at Puducherry.

13. The Criminal Revision Case stands allowed, accordingly.

09.01.2025

Index: Yes/No
Speaking/Non-speaking order
Neutral citation: Yes/No.

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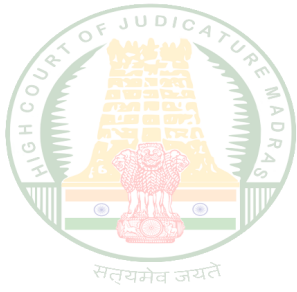


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SUNDER MOHAN, J.

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To

1. The Sessions Judge,
Fast Track Court exclusively to deal with
offences under the POCSO Act,
Puducherry.

2. The Inspector of Police,
Nettapakkam Police Station,
Pondicherry

3. The Public Prosecutor,
Puducherry.

4. The Public Prosecutor,
High Court, Chennai.

Pre-delivery order in
Crl.R.C.No.2008 of 2024

09.01.2025



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