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BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

RESERVED ON : 26.08.2025

DELIVERED ON : 11.11.2025

CORAM:

THE HONOURABLE MR.JUSTICE **B.PUGALENDHI**

Crl.OP(MD)No.12044 of 2025

and

Crl.MP(MD)Nos.9270, 9271 of 2025

Sahirsha @ MS Sha

: Petitioner

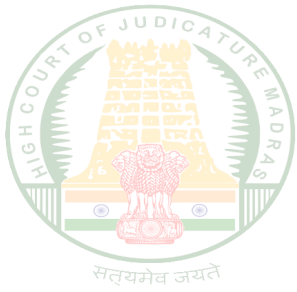
Vs.

1.State of Tamil Nadu, Rep. by
The Inspector of Police,
All Women Police Station,
Thilagar Thidal,
Madurai City.
Cr.No.8/2024

2.Nazirkhan

: Respondents

PRAYER: Petition filed under Section 528 BNSS to call for the records pertaining to Spl.SC.No.126 of 2025 on the file of the Special Court for Exclusive Trial of Cases under POCSO Act, Madurai and quash the same.



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For Petitioner : Mr.R.Anand

For Respondents: Mr.A.S.Abul Kalaam Azad,
Government Advocate (Crl. Side)
for R.1

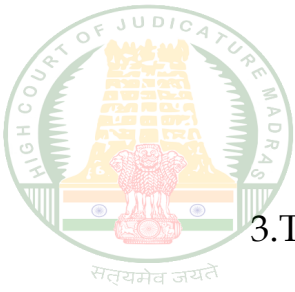
No appearance for R.2

Mr.S.Deenadhayalan
Amicus Curiae

ORDER

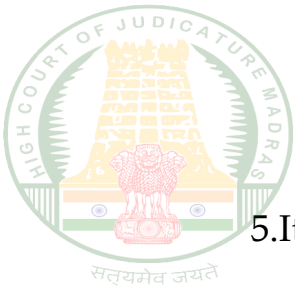
This Criminal Original Petition has been filed seeking to quash the proceedings in Spl.SC.No.126 of 2025 pending on the file of the Special Court for Exclusive Trial of Cases under the POCSO Act, Madurai.

2.The petitioner is arrayed as the first accused in the above case for the offences under Sections 11(1), 11(4), 12, 16 and 17 of the Protection of Children from Sexual Offences Act, 2012 and Section 201 of the Indian Penal Code. The wife of the *defacto* complainant has been arrayed as the second accused.



3.The prosecution case, in brief, is that the *defacto* complainant, who is the father of the victim, was employed in Kerala and used to stay at his residence in Madurai for about twenty days every month. It is alleged that his wife, who had fallen into financial difficulty, sought the assistance of the petitioner, during which the petitioner started sending obscene WhatsApp messages to her and to her daughter, aged 16 years. Upon perusal of the mobile phone of the victim, the *defacto* complainant allegedly discovered these messages and lodged a complaint on 20.03.2024, which was registered in Crime No. 8 of 2024 under the POCSO Act.

4.It is submitted by the learned counsel for the petitioner that the case was investigated and a final report was filed as “mistake of fact” on 15.07.2024 before the jurisdictional Court. Subsequently, the Director General of Police, by proceedings dated 18.12.2024, directed reopening and further investigation. Thereafter, a positive final report came to be filed on 05.03.2025 implicating the petitioner and the wife of the *defacto* complainant.



5.It is the contention of the petitioner that the said further investigation was conducted without obtaining permission from the concerned Court and, therefore, is contrary to law. It is further contended that the alleged victim, in her statements, has not supported the version of the prosecution and has stated that it was her father, the *defacto* complainant, who had sexually abused her.

6.The petitioner has also drawn attention to another complaint lodged by the mother of the victim, which was registered in Crime No.13 of 2024 under Sections 11(1), 11(2) and 12 of the POCSO Act, alleging that the *defacto* complainant (father) had committed sexual abuse on the victim. It is submitted that without properly investigating this complaint, the petitioner has been falsely implicated.

7.The petitioner further submitted that he has been targeted due to political vendetta and that there exist marital disputes between the *defacto* complainant and his wife, due to which the daughter has been used as a tool to file a false case. It is also contended that there is no conclusive

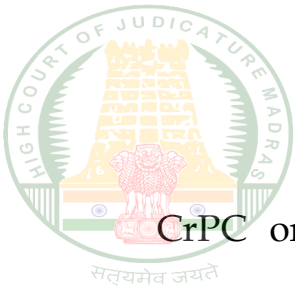


linking evidence connecting the mobile phone used for sending the alleged messages to the victim. Therefore, he prayed for appropriate orders.

8.Per contra, learned Government Advocate (Criminal Side) submitted that the further investigation was carried out with the permission of the concerned Court and, based on incriminating materials such as WhatsApp chats, a final report was filed as against the petitioner. It is further submitted that disciplinary action has been initiated as against the then Investigating Officer, one Annamayil, for filing a “mistake of fact” report without obtaining legal opinion and for showing undue favour towards the accused.

9.This Court paid it's anxious consideration to the rival submissions made on either side and perused the materials placed on record.

10.A perusal of the materials on record reveals that the complaint lodged by the *defacto* complainant on 20.03.2024 resulted in registration of Crime No.8 of 2024. The statement of the victim recorded under Section 164

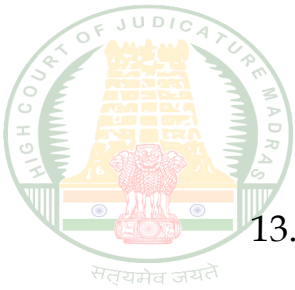


CrPC on 02.04.2024, however, indicates allegations against her father.

Subsequently, the mother of the victim filed a complaint before the Judicial Magistrate on 13.05.2024, which was forwarded under Section 156(3) CrPC, resulting in registration of Crime No.13 of 2024 against the *defacto* complainant (father). He was arrested on 27.06.2024 and granted bail on 10.09.2024.

11.The forensic report dated 18.06.2024 shows that obscene messages and voice chats were sent from a WhatsApp account of one “M.S. Sha”, the petitioner herein, to the victim, including queries about whether her father was present. Despite the existence of such material, the earlier final report was filed as “mistake of fact”, absolving the petitioner of all charges.

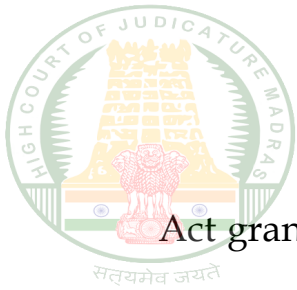
12.*Prima facie*, the material available indicates the commission of offences under the POCSO Act. The petitioner’s contentions regarding linking of mobile devices and authorship of messages are matters for trial and cannot be adjudicated in a petition under Section 482 CrPC.



13.It is also relevant to note that the learned Principal Sessions Judge, Special Court for Exclusive Trial of POCSO Act Cases, by order dated 06.01.2025, refused to accept the “mistake of fact” final report and directed further investigation in both cases in Crime Nos.8 and 13 of 2024 by a suitable officer. Hence, the further investigation in the present case is judicially sanctioned.

14.Though the victim appears to have given contradictory statements, such inconsistency, by itself, cannot form the basis for quashing criminal proceedings. Offences under the POCSO Act are offences against society and may be established on the basis of other corroborative materials. In fact, the sequence of events does raise serious suspicion as to whether the father of the victim was implicated to protect the petitioner.

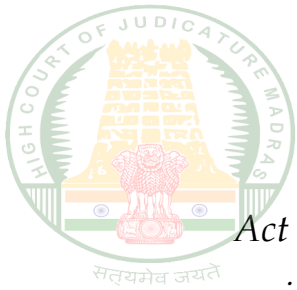
15.Of late, this Court is witnessing the increasing trend of misuse of the provisions of the POCSO Act to settle personal or political scores. Such misuse not only results in harassment of innocent individuals but also undermines the true object of the Act. While Section 22(2) of the POCSO



Act grants immunity to minors from prosecution for false complaints, such protection has, in certain cases, been exploited to lodge false and malicious allegations. Section 22(1), however, makes it punishable for adults to file false complaints, prescribing imprisonment up to six months or fine or both.

16. In *Suhara v. Muhammed Jaleel* [2019 (2) KHC 596], the Kerala High Court cautioned that there is a growing tendency to foist false allegations of sexual abuse by misusing the provisions of the POCSO Act, particularly in custody disputes. The Court emphasized the need for a cautious approach in such matters in the following terms:-

"28. ... Unless a very cautious approach is adopted by the Family Court to ensure that information on which crime was registered is not frivolous and vexatious, many a innocent parent fighting for custody of his own ward would be victim of false implication of crimes under the POCSO Act. There is a growing tendency in the recent years to foist false crimes against the biological father alleging sexual abuse of own child misusing the provisions of the POCSO Act when serious fight for custody of ward is pending resolution before the Family Courts. The Family Courts to whose notice registration of crime under the POCSO



Act is brought owe an onerous responsibility to ensure that the registration of crime against the parent is not a ruse for defeating his legitimate claim for custody of the ward."

17.In *XXX v. State of Kerala* [2024 KHC Online 692], it was held that in cases where false accusations under the POCSO Act are apparent, the trial Court should direct the registration of a case under Section 22 of the Act. The relevant observation is extracted as under:-

"16. I am of the considered opinion that the POCSO Courts which try cases like this in which an accusation of sexual abuse is made against the father of the minor child, especially when there is a custody dispute, the court should look into the facts again and again before deciding the cases. All cases will be decided by all courts with great caution. But these types of cases should be dealt with very seriously because if the allegations are correct, that is serious; but if the allegations are false, a man is crucified without any substance and he will be defamed in the society because of such allegations. Therefore it is the duty of the court to see that there is no false allegation against parents especially when there is a dispute regarding the custody. Moreover, Section 22 of the POCSO Act provides punishment for false complaint or false information. In appropriate cases, the court should inform the police for investigation, if a prima facie case under Section 22 of the POCSO Act is made out. This



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is a fit case in which the Investigating Officer in Crime No.668/2015 has to consider whether any offence under Section 22 of the POCSO Act is committed by the 2nd respondent. Section 22 of the POCSO Act says that any person who makes false complaint or provides false information against any person in respect of an offence under Sections 3, 5, 7 and 9 solely with the intention to humiliate, extort, threaten or defame shall be punished with imprisonment for a term which may extend to six months or with fine or with both. If the POCSO Court found after trial that there is substance in the case of the accused that it is a false accusation, the POCSO Court should direct the Police authorities to register a case under Section 22 of the POCSO Act and proceed in accordance with the law."

18. Similarly, in *Aravind v. State of Kerala* [B.A.Nos.5168 & 5425 of 2024, dated 07.08.2024], the Kerala High Court reiterated that the police and Courts must act with great caution when allegations are made against family members, as false accusations can lead to irreversible stigma and social harm. The relevant observation is extracted as under:-

"18. All the above precedents clearly illustrate that this Court has consistently cautioned against the potential misuse of the otherwise benevolent provisions of the POCSO Act. The present cases serve as a

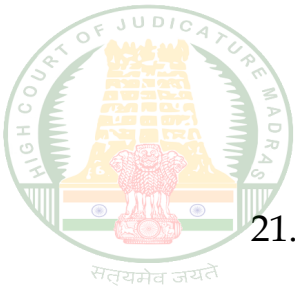


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reminder to all stakeholders involved in the judicial process, to exercise due caution, prudence and diligence prior to arresting an accused, especially, blood relatives and family members of a minor victim, who in a moment of an emotional turmoil, may make unfounded allegations against her own family members without fully realising the implications, gravity and seriousness of the action. In such sensitive cases, it is imperative that all stakeholders, including the Courts and the Police, approach the matter with sensitivity, care and caution before resorting to extreme steps in the matter."

19.Trial Courts must, therefore, exercise due prudence and, wherever appropriate, direct registration of a case under Section 22 of the POCSO Act against adults found to have filed false complaints.

20.In the present case, the conduct of the original Investigating Officer, Annamayil, in filing a biased report as "mistake of fact" despite the existence of incriminating material, is highly condemnable. It is expected that the disciplinary proceedings initiated against her are taken to their logical conclusion.



21. In the light of the above discussion, this Court is not inclined to quash the proceedings in Spl.SC.No.126 of 2025 as against the petitioner.

The trial Court shall proceed with the trial uninfluenced by any of the observations made in this order and dispose of the case in accordance with law.

22. This Court places its appreciation to the learned *Amicus Curiae*, who has assisted the Court to arrive at a just and right conclusion.

With the above observations and directions, this criminal original petition stands dismissed. Consequently, connected miscellaneous petitions stand closed.

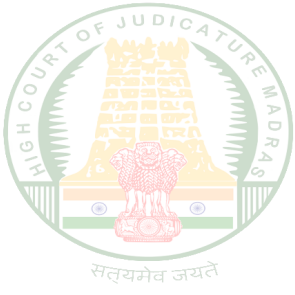
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11.11.2025

To

1. The Judge,
Special Court for Exclusive Trial of Cases under POCSO Act,
Madurai.

2. The Inspector of Police,
All Women Police Station,
Thilagar Thidal, Madurai City.



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CrI.OP(MD)No.12044 of 2025

B.PUGALENDHI, J.

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