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CrI.O.P.No.29194 of 2024

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 21.11.2024

Coram:

THE HONOURABLE MR. JUSTICE P.VELMURUGAN

CrI.O.P.No.29194 of 2024 and
CrI.M.P.Nos.16353 and 16355 of 2024

Aathimoolam

... Petitioner

Vs.

1. State Rep. by

The Inspector of Police

Kottur Police Station

Coimbatore District

(Crime No.305 of 2022)

2. The District Child Protection Officer

District Collector Office, Coimbatore

... Respondents

Prayer: Criminal Original Petition filed under Section 528 of B.N.S.S. to call for the entire records in Spl.S.C.No.238 of 2024 on the file of the learned Sessions Judge, Principal Special Court for Exclusive Trial of Cases Under POCSO Act, Coimbatore and quash the same in respect of petitioner/3rd accused.

For Petitioner : Mr.P.Krishnamoorthy

For Respondents : Mr.S.Sugendran

Additional Public Prosecutor



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ORDER

This Criminal Original Petition has been filed by the petitioner to quash the case in Spl.S.C.No.238 o 2024 on the file of the learned Sessions Judge, Principal Special Court for Exclusive Trial of Cases Under POCSO Act, Coimbatore, insofar as the petitioner/3rd accused is concerned.

2. The learned counsel for the petitioner submitted that the petitioner was working as a Head Master of the school in which the victim girl was studying. A1 and A2 have been charged for the offence under POCSO Act for sexually abusing the victim girl. Though the petitioner was not named in the FIR, subsequently, after investigation, his name was included in the charge sheet and he has been arrayed as A3 for the offence under Section 21(2) of POCSO Act for not reporting the crime to the authorities concerned. The learned counsel further submitted that even at the time when the victim girl was studying in 8th Standard in the year 2018, the petitioner was working as a



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Head Master and no oral or written complaint was received from the victim

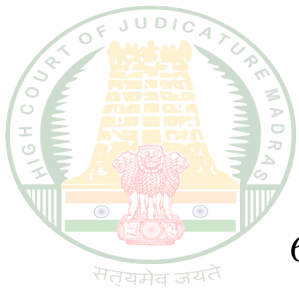
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girl and after a period of 3 years, the complaint has been lodged in the year 2022. Further, there is a delay in filing the charge sheet and the same has not been explained. He also placed reliance of the decisions of the Kerala High Court in CrI.MC.No.7715 of 2023 dated 16.10.2024.

3. The learned Additional Public Prosecutor appearing for the respondent police submitted that based on the complaint and later statement, the respondent police impleaded the petitioner as A3.

4. Heard both sides and perused the materials available on record.

5. A perusal of the decision referred to by the learned counsel for the petitioner is not relevant to this case. The facts and circumstances of the said case is different from the present case on hand. Especially in POCSO cases, each case has got its own merits. At the stage of FIR or charge sheet, the Court cannot rely on any material and it has to be testified by way of trial.



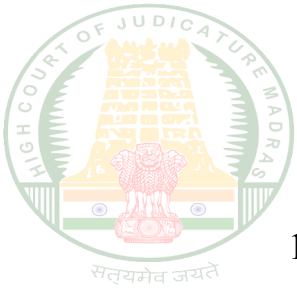
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6. Though initially the petitioner was not shown as an accused in the FIR, the subsequent materials revealed that the petitioner is also involved in the crime of offence and therefore, he has been impleaded in this case as A3 for the offence under Section 21(2) of POCSO Act.

7. The Head Master is the guardian of the entire school. If any incident covered under POCSO Act has taken place, the same has to be immediately intimated either to the District Child Protection Officer or to the Police concerned whereas, in this case, the petitioner who was the Head Master of the School at the time of occurrence, neither informed about the sexual assault committed by the other accused to the authorities concerned nor taken any action against them.

8. Since there is a prima facie allegation against the petitioner, this Court is not inclined to quash the charge sheet filed against the petitioner.

9. Accordingly, this Criminal Original Petition is dismissed. Consequently, connected Miscellaneous Petitions are closed.



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10. Before parting with this case, the respondent police is directed to file

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a report before this Court on or before 12.12.2024 as to the actions taken by them against the petitioner herein i.e. whether the respondent police recommended the Education Department to initiate departmental proceedings against the petitioner or recommended for any other action against the petitioner.

11. Post the matter on 16.12.2024 "for filing the report".

21.11.2024

Index : Yes / No

Speaking Order : Yes / No

Neutral Citation Case : Yes/No

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Note: Issue Order Copy On 22.11.2024



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To

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1. The Inspector of Police
Kottur Police Station
Coimbatore District

2. The District Child Protection Officer
District Collector Office, Coimbatore

3. The Public Prosecutor,
High Court of Madras.



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P.VELMURUGAN. J.

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