

Crl.R.C.No.2330 of 2024

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IN THE HIGH COURT OF JUDICATURE AT MADRAS

Reserved on : 13.02.2025

Pronounced on: 03.03.2025

CORAM

THE HON'BLE MR. JUSTICE P.VELMURUGAN

Crl.R.C.No.2330 of 2024

and

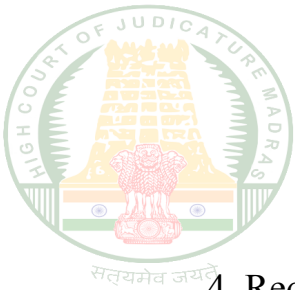
Crl.M.P.No.18005 of 2024

News Tamil 24x7 represented by its
Editor : Anand Prabhakar,
Senior Vedio Editor,
No.145,1-A, Rukmani Lakshmipathi Road,
Egmore, Chennai 600 008.

... Petitioner

Vs

1. Shruthi Thilak
2. Prabhu Thilak
3. Galatta Media Private Limited,
Represented by, Arunakrishnan,
Santhanam Krishnan,
Senior Video Editor,
Unit 701, Sigma Wing,
Raheja Towers, No.177, Anna Salai,
Chennai – 600 002.



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4. Red Pix Media Private Limited,
Represented by its Managing Director Felix,
Office at No.21, CIT, 1st Main Road,
CIT Nagar West, Mylapore, Chennai – 600 004.

5. Selvaraj Arunachalam alias Crime Selvaraj,
Assistant Editor:Times of India,
No.19, Kochar Towers,
Venkatnarayana Road,
T.Nagar, Chennai – 600 017.

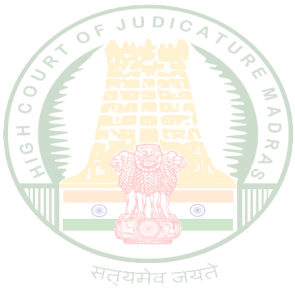
6. The State represented by,
The Inspector of Police,
W-27 All Women Police Station,
Vadapalani, Chennai.

... Respondents

PRAYER: Criminal Revision Petition filed under Section 438 read with 442 of BNSS,

(i) Stay all further proceedings in Crime No.23 of 2024 dated 09.07.2024 on the file of the sixth respondent pending disposal of this petition.

(ii) To call for the records in connection with Crl.M.P.No.667 of 2024 on the file of the Special Court for Exclusive Trial of Offences under POCSO Act Cases, Chennai which later culminated into F.I.R in Crime No.23 of 2024 dated 09.07.2024 on the file of the 6th respondent.



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(iii) To set aside the order passed in Crl.M.P.No.667 of 2024

on the file of the Special Court for Exclusive Trial of Offences under POCSO Act Cases which later culminated into F.I.R in Crime No.23 of 2024 on the file of the 6th respondent.

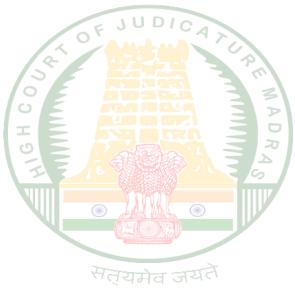
For Petitioner : Mr.Suresh Babu

For R1 : Mr.N.S.Siva Kumar

For R6 : Mr.S.Sugendran
Additional Public Prosecutor

ORDER

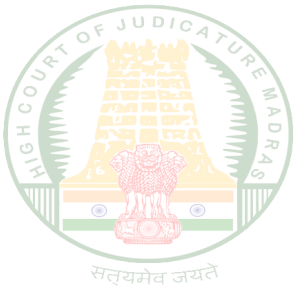
This Criminal Revision Petition has been filed to call for the records and to set aside the order dated 22.05.2024 passed in Crl.M.P.No.667 of 2024 on the file of the Court of Special Judge for Exclusive Trial of Offences under POCSO Act Cases, which later culminated into F.I.R in Crime No.23 of 2024 on the file of the sixth respondent-Police.



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2. The case of the first respondent/*de-facto* complainant is that the first respondent/*de-facto* complainant is facing prosecution in Special S.C.No.69 of 2024 on the file of the Court of Special Judge for Exclusive Trial of Offences under POCSO Act Cases, Chennai, for the offences under Sections 294(B), 352 and 506(ii) IPC and Section 10 read with 17 of the POCSO Act and Section 75 of the Juvenile Justice Act, 2015. Further, it is the case of the first respondent/ *de-facto* complainant that she preferred a complaint in Crl.M.P.No.667 of 2024 before the Court of Special Judge for Exclusive Trial of Offences under POCSO Act Cases, for the offences under Sections 23 and 33 of POCSO Act, 2012 read with Section 74 of the Juvenile Justice Act, 2015, against the petitioner. Based on the said complaint of the first respondent/*de-facto* complainant, the Special Court passed the order dated 22.05.2024 and directed the sixth respondent-Police to register an F.I.R. Based on the said direction of the Special Court, the sixth respondent-Police had also registered an F.I.R in Crime No.23 of 2024 on 09.07.2024 against the petitioner herein for the offence under Section 23(4) of the POCSO Act.



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3. The sum and substance of the complaint made by the first respondent/ *de-facto* complainant against the petitioner is that on 03.09.2023 and 08.09.2023, the petitioner company had published videos through their YouTube Channel namely “News Tamil 24x7” had revealed the name of the family members of the victim and exposed the identity of the victim. The video contravened the law laid down by the Hon'ble Apex Court in *Nipun Saxena and another Vs Union of India reported in 2019 (2) SCC 703 (See Para 50.1)*. The first respondent/ *de-facto* complainant invoked jurisdiction of the Court of Special Judge for Exclusive Trial of Offences under POCSO Act Cases, under Sections 31 and 33(9) of POCSO Act for penal action under Sections 23(2) and 23(3) of the POCSO Act. Aggrieved by the order of the Special Court in Crl.M.P.No.667 of 2024, the petitioner herein has filed this Criminal Revision Petition.

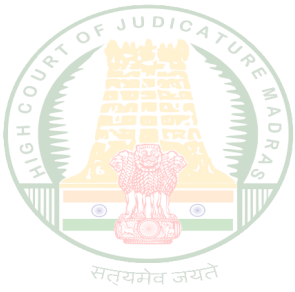
4. The petitioner has challenged the order dated 22.05.2024 passed in Crl.M.P.No.667 of 2024 on the file of the Special Court for Exclusive Trial of Offences under POCSO Act Cases. Based on the



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abovesaid impugned order, the sixth respondent-Police registered a case against the petitioner in Crime No.23 of 2024 on 09.07.2024 for the offence under Section 23(4) of POCSO Act, 2012. It is seen from the records, the first respondent/ *de-facto* complainant preferred a complaint in SR.No.864 of 2024, against the petitioner before the Court of Special Judge for Exclusive Trial of Offences under POCSO Act Cases, for the offences under Sections 23 and 33 of POCSO Act, 2012 read with Section 74 of the Juvenile Justice Act, 2015. The Special Court passed an order dated 22.05.2024, observing that though the complainant has not followed the provisions under Sections 154(1) and 154 (3) of Cr.P.C, directed the sixth respondent-Police to register a case and investigate the matter. Based on the said order, the sixth respondent-Police has also registered an F.I.R as referred above. Challenging the order dated 22.05.2024 passed by the Special Court, directing the sixth respondent-Police to register an F.I.R and also to grant stay of all further proceedings in Crime No.23 of 2024 dated 09.07.2024 on the file of the sixth respondent pending disposal of this petition, the petitioner has filed this criminal revision petition.

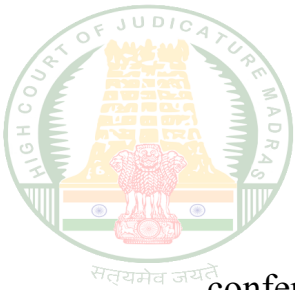


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5. The learned counsel for the petitioner submitted that the impugned order passed by the Special Court is erroneous. The Special Court has got jurisdiction to take cognizance of the complaint under Section 33(1) of POCSO Act. The impugned order passed by the Special Court and forwarding the complaint to the Commissioner of Police to direct the Investigating Agency to register an F.I.R is against the statute. The learned Special Judge has no power to direct the police to register an F.I.R for the offence under POCSO Act, instead of taking cognizance of the complaint, if *prima facie* case is made out. The learned Special Judge had travelled beyond the scope of the prayer as prayed for by the first respondent in the said petition. The learned Special Judge without application of judicial mind, mechanically has given a direction to the sixth respondent-Police to register a case and to conduct investigation.

6. Further, the learned counsel for the petitioner submitted that Section 19 of POCSO Act starts with a “*Non-Obstante Clause*”, thus overriding the provisions of Criminal Procedure Code, when it comes to report the offences under POCSO Act. Section 19 of POCSO Act



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confers the right to any person who has apprehension that an offence under POCSO Act is likely to be committed or has knowledge that such an offence has been committed shall report such offence under Section 19(1) of POCSO Act either to the Special Juvenile Police or to the Local Police and it is upon them to register an F.I.R immediately and follow the compliance as required under Section 19 of the Act. The Statute also stated that contravention of Section 19 of POCSO Act would invoke Section 21 of the POCSO Act for punishment.

7. Further, the learned counsel for the petitioner submitted that the averments made in the complaint does not show that the complainant had invoked Section 19 of POCSO Act. Since the first respondent had not chosen to invoke Section 19 of POCSO Act, the Special Court should have taken cognizance under Section 33(1) of POCSO Act, instead of forwarding the complaint to the Commissioner of Police. The Special Court ought to have conducted enquiry and pass orders on merits. The petitioner has not disclosed the identity of the child and her family members as alleged by the first respondent/complainant. Hence, the order



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passed by the Special Court is liable to be dismissed and consequently, F.I.R in Crime No.23 of 2024 on the file of the sixth respondent-Police is also liable to be quashed.

8. Learned counsel for the first respondent/*de-facto* complainant submitted that the case in S.C.No.69 of 2024 on the file of the Special Judge for Exclusive Trial of Offences under POCSO Act Cases, Chennai, for the offences under Sections 294(B), 352 and 506(ii) IPC and Section 10 read with 17 of the POCSO Act and Section 75 of the Juvenile Justice Act, 2015 is pending against her. Whiles, the petitioner published the identity of the victim and her family members through media. Hence, the first respondent/*de-facto* complainant preferred a complaint in CrI.M.P.No.667 of 2024 before the Court of Special Judge for Exclusive Trial of Offences under POCSO Act Cases, for the offences under Sections 23 and 33 of POCSO Act, 2012 read with Section 74 of the Juvenile Justice Act, 2015 as against the petitioner. Based on the said complaint of the first respondent, the Special Court passed the order dated 22.05.2024 directing the sixth respondent to register an F.I.R.



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Based on the said direction of the Special Court, the sixth respondent-Police had also registered an F.I.R in Crime No.23 of 2024 on 09.07.2024, for the offence under Section 23(4) of the POCSO Act. Aggrieved by the same, the petitioner filed this petition.

9. He further submitted that there is no bar for the Special Court to give the abovesaid direction. Though the Special Court has got power to take cognizance of the complaint and if the Special Court satisfies that *prima facie* case was made out, it can take cognizance of the complaint. At the same time, if the Special Court feels that any investigation by the Investigating Agency would get materials to aid the Court to meet the ends of justice, it can give such direction to the Investigating Agency. The Special Court has got jurisdiction to take cognizance of the complaint by itself, otherwise upon police report. The allegation against the petitioner is that the petitioner disclosed the identity of the victim child by exposing her family details. The Special Court, in its impugned order, stated that though Sections 154(1) and 154(3) of Cr.P.C. have not been complied with by the complainant,



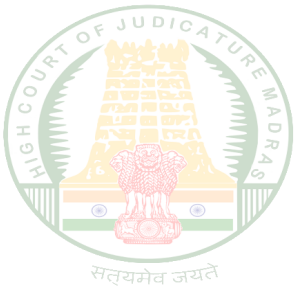
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directed the respondent-police to register an F.I.R. Hence, there is no merit in the revision petition and the same is liable to be dismissed.

10. The Special Court has got the power either to take cognizance by itself on complaint or upon police report. The allegation against the petitioner is that the petitioner had disclosed the identity of the victim's family by publishing the same through media. Hence, statutory provision under the POCSO Act has been invoked. Since the offence is regarding identification of victim's family by publication, it is difficult to establish the same either by the victim or by the complainant. Therefore, the Special Court thought it fit to entrust the work to the investigating agency to collect the particulars.

11. Heard the learned counsel appearing for the petitioner, learned counsel for the first respondent and the learned Additional Public Prosecutor appearing for the sixth respondent-Police and perused the materials available on record.



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12. As per Section 33 of POCSO Act, the Special Court may take cognizance of any offence, without the accused being committed to it for trial, upon receiving a complaint of facts which constitute such offence or upon a police report of such facts. The Section 33 of POCSO Act is very clear that no committal proceedings is necessary. Since the Special Court is a Court of Session, committal proceedings on the Sessions case would not be applicable to the case on hand. If any complaint received by the Special Court, it can take cognizance of the same, if the Special Court/Special Judge feels that it *prima facie* constitute an offence. If any case is registered under Section 154 Cr.P.C., after investigating the matter, if charge sheet is laid under Section 173 Cr.P.C., straight away, the police can file the charge sheet before the Special Court. The Investigating Officer need not file a charge sheet before the jurisdictional Magistrate for committal proceedings. In this case, already after completion of investigation, S.C.No.69 of 2024 was taken on file by the Special Judge for Exclusive Trial of Offences under POCSO Act Cases, Chennai. Pending case, the first respondent made a complaint in SR.No.864 of 2024. No doubt, the Special Judge can/herself/himself can

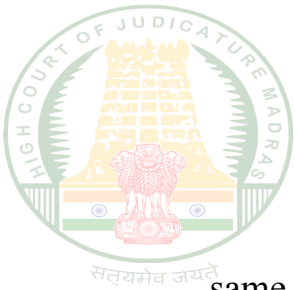


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take cognizance of the complaint and no need to forward the complaint to the police in all the cases. The offence is under POCSO Act. In all cases, Section 154 Cr.P.C., need not be followed. Since the Special Court itself has got the power to take cognizance of the complaint which constitute such offence or it can also upon the police report, they can take cognizance of the case. In this case, the learned Special Judge forwarded the complaint to the Commissioner of Police to direct the investigating agency which has jurisdiction to register F.I.R on that complaint, only due to non-compliance of Section 154 Cr.P.C, which may be not correct. However, there is no bar for the Special Judge to forward the complaint to the Police official to register the case and to investigate the matter.

13. Though the reasons stated by the learned Special Judge, might not be correct, this Court by invoking Section 438 read with 445 of BNSS, in the interest of justice and also considering the nature of the offence in the alleged petition filed by the first respondent against the petitioner, the first respondent may not be in a position to establish the



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same. Further, no prejudice would be caused to the petitioner by registering the case and investigation to be conducted by the jurisdictional police. It will reveal whether the petitioner had violated Section 19 of POCSO Act and also Section 23(iv) of POCSO Act. There is no abuse of process of law. The error committed by the learned Special Judge is mere irregularity, which cannot be treated as illegality. Considering the serious nature of the offence and the responsibility for the petitioner towards the society, this Court is not inclined to set aside the order passed by the Special Court and also to grant stay of investigation of the case registered against the petitioner.

14. Admittedly, the offences under POCSO Act are cognizable offence and the police should register the case straight away and conduct investigation, without obtaining any order/permission or direction from the Court. However, the first respondent filed a complaint by approaching the Special Court. The Special Court has got jurisdiction either to take cognizance of the complaint and proceed further. The Special Judge feels that the investigation report will assist the Court to



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find out the truth. It is nothing wrong to direct the police to register the case under POCSO Act. It is very difficult to substantiate the case by the victim alone by filing the complaint before the Court and bring the witnesses to substantiate their complaint. Section 33 of POCSO Act empowers the Special Court to take cognizance of offence without the accused being committed to it for trial upon receiving the complaint on facts which constitute such offence. As per criminal jurisprudence, the prosecution has to prove the case beyond reasonable doubt and it is very difficult for the victim to substantiate the allegation. The Special Court is also empowered to take cognizance of the offence, upon a police report. On the abovesaid facts, this Court finds that there is no bar to direct the Investigating Officer to register the case and to investigate the matter. There is no illegality in the order passed by the learned Special Judge and no prejudice would be caused to the petitioner.

15. In such circumstances, this Court does not find any merit in the criminal revision petition and the same is liable to be dismissed. Since the main case is pending, the Investigating agency/sixth



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respondent is directed to complete the investigation and file a final report before the Special Court as early as possible, preferably within a period of two months. The Special Court is directed to complete the trial within the stipulated time. If the main case is still pending both the cases can be disposed of simultaneously as early as possible.

16. Hence, this Criminal Revision Petition is dismissed.
Consequently, connected miscellaneous petition is closed.

03.03.2025

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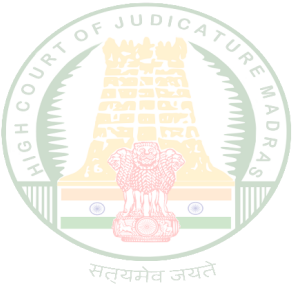
Index: Yes/No

Speaking Order: Yes/No

Neutral Citation: Yes/No

To

1. The Special Court for Exclusive Trial of Offences under POCSO Act Cases, Chennai.
2. The Inspector of Police,
W-27 All Women Police Station,
Vadapalani, Chennai.
3. The Public Prosecutor,
High Court, Chennai.



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P.VELMURUGAN, J

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and
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03.03.2025