

BEFORE THE HON'BLE ADDITIONAL DISTRICT AND SESSIONS
COURT THALASSERY (ADC I)

CRIME NO 94/2020 OF PANOOR POLICE STATION
AND

CRIME NO 33/2020 OF CBCID KASARGODE

State, Inspector CBCID, Kasargode | Complainant

Vs

Padmarajan | Accused

PETITION FILED U/S 173(8) OF Cr.PC BY B.P.SASEENDRAN, PUBLIC
PROSECUTOR, THALASSERY AND BEENA KALIYATH, SPECIAL
PROSECUTOR, POCSO IN THE ABOVE MATTER FOR FURTHER
INVESTIGATION OF THE ABOVE CASE

The complainant in the above case has filed Final report U/s 173(2) of Cr.PC against the accused for the offences punishable U/s 323, 324 of IPC and S.75 and 82 of JJ Act 2015. Originally case was registered U/s 376AB, 376(2)(f), 354 of IPC and Sec. 5(f)(1)(m) r/w Sec.6 of the POCSO Act. The case was instituted as per the statement lodged by the victim girl of aged 10 years given to the Panoor Police in the presence of her mother alleged sexual assault including rape and aggravated Penetrative Sexual assault committed by the accused, One of her school teachers on more than one occasions. Prior to it, she had approached the Child Line authorities and narrated the incident, Investigation was primarily conducted by IP, Panoor and the accused was arrested on 16-04-2020. But the State Police Chief directed to transfer the investigation from the local police as directed to form a Special Investigation Team under CBCID. CBCID took the charge of Investigation on 28.04.2020 and filed Final report before this Hon'ble Court on 14-07-2020. The charges leveled against the accused in the final report are U/s 323, 324 IPC and S.75, 82 of JJ Act alleging that accused being the teacher of CW1 to 5 assaulted them physically and mentally by beating them on various occasions during the academic year 2019-2020. According to IO, the final investigation is only in progress as far as offences of rape in IPC and aggravated Penetrated Sexual offences of POCSO Act. IO has stated his inability to complete the investigations within 90 days due to want of time to look into the contradictory statements given by victim and find out the truth by examining her in the presence psychology experts. They have

also mentioned in the charge sheet that they could not adopt such courses since the team was under charge of COVID-19 pandemic regulating system

It is submitted by the Prosecution that the only course which can apply the investigating agency is further investigation. But the investigating agency has not submitted any such application before the Hon'ble Court separately. Moreover the final report filed U/s. 173(2) of Cr.PC is also shows so many latches on the part of investigation. It is not desirable at this stage to point out all those latches before this Hon'ble Court by the Prosecution especially it is a case under widely discussion of public domain. But at the same time by considering the role of a Public Prosecutor in Criminal cases is to safe guard the interest not only of the victims/complainant but also accused and as we have paramount duty to place all the facts before the court by ensuring fair play in proceedings and truth and justice to all parties and more particularly when the case is posted for hearing for receiving the charge, we begs to submit order a further investigation by this Hon'ble Court for easy justice and for considering the merits in our prayer only, I would like to bring certain latches of investigation;

1. The Final report does not reveal that the present investigation agency did not interrogate with the victims after taking the investigation by them. It is absolutely necessary when they say that there is contradictory statement from her. Moreover Sec. 26(4) of POCSO Act warrants recordings of the statement of child by electronic means of audio or video. It was highly necessary especially when there was hue and cry from the side of victim against the investigation carried out by Local Police.
2. CBCID ought to have record the statement of victim by an expert senior lady IPS Police Officer.
3. The investigation agency ought to have submits the medical examination report of victim along with Final report.
4. The present final report of assaults of various students of the school at different occasion are incorporated in a single charge sheet by citing all of them as witnesses is also not a correct method of filing charge sheet. They ought to have transfer FIR to Local police in such a case.

5 A rapist not only violates the victim's privacy, personal integrity but inevitably cause serious psycho logical as well as physical harm in the process. The court and prosecutors therefore shoulders a great responsibility while considering a case of rape of POCSO offences. At the same time, an innocent man should not be harassed also. So in order to see the justice, a proper investigation in the case through monitoring it by this Hon'ble Court is highly essential

Hence it is humbly prayed that this Hon'ble Court may be pleased to order further investigation in the above case with the continuous monitoring of this Hon'ble Court in the interest of justice

Dated 22nd July

Respectfully submitted

B.P Saseendran,
Dist.Govt.Pleader &
Public Prosecutor, Thalassery