

Petitioner:-

Vs.

Respondent/Complainant:-

State: Inspector CBCID, Kasargode, Rep. by Spl. Public
Prosecutor, Thalassery.

Petition to get copies of the documents along with the final
report.

These petitions coming on this day for hearing before me in the
presence of Special Public Prosecutor for the State/petitioner in
CMP.No.1569/2020 and for the State/complainant in
CMP.Nos.1570/2020 and 1571/2020; of Sri.P.Premarajan, Advocate
for the petitioner in CMP.No.1570/2020 and respondent in
CMP.No.1569/2020; of Sri. K.P.Munas, Advocate for the petitioner in
CMP.No.1571/2020; the Court passed the following:-

COMMON ORDER

CMP.No.1569/2020 is filed by the Public Prosecutor u/s.173(8)
of Cr.P.C seeking further investigation in this case.
CMP.No.1570/2020 is filed by the counsel for the accused seeking
certified copy of the case records to approach Hon'ble High Court of
Kerala. CMP.No.1571/2020 is filed by the counsel for the mother of
the child victim seeking copy of the documents submitted along with
an application asking the court to take cognizance against the
accused under the Protection of Children from Sexual Offences
Act by looking into the statement of the child victim and other
relevant medical records.

2. In this case though charge sheet is filed u/s.173(2) of Cr.P.C., it is specifically stated in the charge sheet itself that they are conducting further investigation with regard to the offences alleged under Protection of Children from Sexual Offences Act. So as such even though it is stated that the final report u/s.173(2) is filed, it has to be taken that further investigation is going on. The Public Prosecutor submitted that there are many lacuna in the investigation and he is bringing out the same to the notice of the court. He requires the court to order further investigation in this case.

3. The lacunas and laches pointed out is not reproduced here as both counsel for accused as well as counsel for the victim's mother submitted that they are also in favour of further investigation in this case as ultimately all of them want the truth to be brought out.

4. The Public referred to **Vinubhai Haribhai Malaviya and others v. State of Gujarat and Another (AIR 2019 SC 5233)** as well as **ILR 2020(2) Kerala 239 (State of Kerala v. Jayesh @ Jabbar @ Babu)** to point out that the power u/s.173(8) of Cr.P.C can be invoked by the Magistrate before the trial actually commenced. The trial in a sessions case commenced on framing charge. In this case, the trial has not commenced. Thus, considering the laches pointed out by the Public Prosecutor and the submission of counsel for the accused as well as the mother of the victim that ultimately the truth has to be brought out the investigating agency is to conduct further investigation in this case looking into all materials that is brought out and submitted before it.

5. The counsel for accused as well as the counsel for the mother of the minor victim pointed out that there is a media trial is going on and they wanted some sort of order from this court to direct the investigating agency not to give any interviews or other publications in social media regarding the investigation of the case. Counsel for accused has produced **1984 KHC 235 (Kannan v. State of Kerala)** regarding the over publicity in criminal cases in

mass media which affects fair trial. I am sure the investigating officer and the team is well aware regarding the catena of decisions by the Hon'ble High Court and Supreme Court regarding giving interviews or providing material in social media regarding a case that is under investigation. I am sure no order is necessary and they will keep this fact in mind during the investigation.

6. Regarding an application filed for getting certified copies, since further investigation is going on, the Sec.164 statements cannot be given at present. Regarding the other documents, certified copy can be granted to counsel for the accused and counsel for the mother of the minor victim as they have to approach the higher forums for getting relief. Thus these petitions are partly allowed.

7. Further investigation is ordered u/s.173(8) of Cr.P.C.

(Dictated to my Confidential Assistant, transcribed and typed by her, corrected by me and pronounced in open Court on this day the 22nd of July, 2020).

sd/-

SPECIAL JUDGE/

ADDITIONAL SESSIONS JUDGE-I
(In Charge)

Copy to:-

- (1) The Spl.Public Prosecutor, Thalassery.
- (2) The Petitioners in CMP1570/2020 & 1571/2020.
- ✓ (3) The Inspector, CBCID, Kasargode.