

P.Ranjith vs State Represented By on 18 December, 2024

Author: P.Velmurugan

Bench: P.Velmurugan

Crl.O.P.No.3

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 18.12.2024

CORAM

THE HON'BLE MR. JUSTICE P.VELMURUGAN

Crl.O.P.No.31687 of 2024

and

Crl.M.P.No.18031 of 2024

P.Ranjith

... Pe

Vs.

State represented by
The Inspector of Police,
All Women Police Station,
Kancheepuram.

... Respo

PRAYER: Criminal Original Petition filed under Section 268(2) of BNSS, to direct the learned Judge, Special Court POCSO cases, Chengalpattu to receive and take the petitioner's petition on file presented on 21.11.2024 in Spl.S.C.No.164 of 2023 on the file of the Special Court (POCSO Cases) at Chengalpet, which was also filed through e-filing in No.ATN2022001976D20240028 for discharge of the accused under Section 268(2) of BNSS.

For Petitioner : Mr.V.Sairam

For Respondent : Mr.S.Sugendran
Additional Public Prosecutor

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<https://www.mhc.tn.gov.in/judis>

Crl.

ORDER

This Criminal Original Petition has been filed to direct the learned Judge, Special Court (POCSO cases) Chengalpattu to receive and take the petitioner's petition on file which was presented on 21.11.2024 in Spl.S.C.No.164 of 2023 on the file of the Special Court (POCSO Cases) at Chengalpet, which was also filed through e-filing in No.ATN2022001976D20240028 for discharge of the accused under Section 268(2) of BNSS.

2. Heard the learned counsel appearing for the petitioner and the learned Government Additional Public Prosecutor appearing for the respondent and perused the materials available on record.

3. It is the contention of the petitioner that the respondent filed a charge sheet as against the petitioner for the offence under Sections 376(2)(n), 506(2), 366, 354A, 354B, 376AB IPC and under Sections 6(l), 5(m) and 5(j)(ii) of Protection of Children from Sexual Offences Act and the same was taken on file in Spl.S.C.No.164 of 2023 on the file of the Special Court (POCSO Cases) at Chengalpattu. The petitioner filed a <https://www.mhc.tn.gov.in/judis> petition on 21.11.2024 before the Special Court seeking to discharge him from the abovesaid offences. The grievance of the petitioner is that the Special judge refused to receive the same. Hence, he filed the above criminal original petition.

4. It is the contention of the petitioner that he has a right to file a discharge petition at any stage, even after the commencement of trial also.

5. It is represented that the case is at the stage of examination of witnesses and the petitioner was quiet so far and now, at the stage of examination of witnesses, he has filed the petition before the Special Court seeking to discharge him from the said offences.

6. The Hon'ble Apex Court, time and again, has given a direction that in the cases registered under POCSO Act, investigation as well as trial has to be completed within the stipulated time as the victim should not be dragged from pillar to post, unnecessarily. <https://www.mhc.tn.gov.in/judis>

7. Even as per Section 35 of the POCSO Act, the evidence of the victim shall be recorded within a period of 30 days from the date the Special Court takes cognizance of the offense. Furthermore, the Special Court is required to complete the trial within one year from the date of taking cognizance of the offense. These timelines are mandated to ensure swift and effective proceedings in cases involving offenses under the POCSO Act, with particular emphasis on minimizing the trauma to the child victim and ensuring timely justice. For better appreciation, Section 35 of POCSO Act is extracted herein:-

"35. Period of recording of evidence of child and disposal of the case:-

(1) The evidence of the child shall be recorded within a period of 30 days of the Special Court taking cognizance of the offence and reasons for delay, if any, shall be recorded by the Special Court.

(2) The Special Court shall complete the trial, as far as possible, within a period of one year from the date of taking cognizance of the offence."

8. Considering the above facts and circumstances of the case, in order to give an opportunity to the petitioner, the petitioner is directed to <https://www.mhc.tn.gov.in/judis> re-present the discharge petition and argue the matter, before the Special Court on 20.12.2024. If the petitioner represents the petition before the Special Court, the Special Court is directed to take the petition on file and dispose of the same on merits and in accordance with law on the same day itself. It is made clear that failing to represent the petition on 20.12.2024, the petitioner is not entitled to file the discharge petition thereafter.

9. With the abovesaid direction, The Criminal Original Petition is disposed of. Consequently, connected miscellaneous petition is closed.

18.12.2024 mfa Index:Yes/No Speaking Order: Yes/No Neutral Citation: Yes/No Note: Issue order copy on 18.12.2024 To

1. The Judge, Special Court for POCSO cases, Chengalpattu.

2. The Inspector of Police, All Women Police Station, Kancheepuram.

<https://www.mhc.tn.gov.in/judis>

3. The Public Prosecutor, High Court, Chennai.

<https://www.mhc.tn.gov.in/judis> P.VELMURUGAN, J.

mfa and 18.12.2024 <https://www.mhc.tn.gov.in/judis>