Jeyaraman vs The State Rep. By on 14 November, 2025

BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

DATED : 14.11.2025

CORAM

THE HONOURABLE MR.JUSTICE SUNDER MOHAN

Crl.O.P.(MD).No.17752 of 2024
and
Crl.M.P.(MD).No.10994 of 2024

Jeyaraman

Vs.

1.The State Rep. by,
The Inspector of Police,
Periyakulam Police Station,
Theni District.
(Crime No.5/2024) ... 1st Res

2.Kalaiselvi ... 2nd Respondent/D

Prayer: Criminal Original Petition is filed under Section 528 of BNSS, 2
to call for the records pertaining to the Charge Sheet in Spl.S.C.No.99
on the file of the Special Court for Exclusive Trial cases under POCSO A
Theni and quash the same as illegal insofar as this petitioner is concer

For Petitioner : Mr.K.Althaf Sheriff
for M/s.Ajmal Associates
For R-1 : Mr.R.Meenakshi Sundaram
Additional Public Prosecutor

For R-2 : No appearance

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ORDER

This Criminal Original Petition is filed to quash the impugned final report in Spl.S.C.No.99 of 2024 on the file of the Special Court for Exclusive Trial of cases under POCSO Act, Theni, which was filed for the offences under Section 10 read with 17 of POCSO Act, 2012 and Section 506(1) of IPC as against the petitioner, who is a lawyer.

2. The gist of the allegations in the final report is that the victim, who was a minor, had a love affair with the first accused; that the first accused married the victim girl when she was a minor; that the first accused had committed the offence of sexual assault on the victim; that the first accused and the victim girl sought the advice of the petitioner, a lawyer, who had advised the victim girl to depose as instructed by him and also get admitted in a Government Home and not to go to her parents house; and that therefore, the petitioner is guilty of abetment of the offence under Section 10 of the POCSO Act.

3. The learned counsel for the petitioner would submit that the prosecution relies upon the victim's statement, which only suggests that the petitioner had advised the victim girl to admit herself in a Home and to depose https://www.mhc.tn.gov.in/judis (Uploaded on: 06/01/2026 10:49:29 am) Crl.O.P.(MD)No.17752 of 2024 as advised by him as otherwise she along with the first accused would be liable for offence and both of them would go to jail. He would further submit that even assuming that the allegations are true, the petitioner had only offered advice to the victim after the commission of the alleged offence and that even if the prosecution case, that the advice offered by the petitioner is illegal, is accepted to be true, the abetment of the offence under Section 10 of the POCSO Act would not be made out as none of the ingredients under Section 17 of the POCSO Act, which is akin to Section 109 of IPC have been made out.

4. Heard the learned Additional Public Prosecutor, who would submit that the petitioner had instructed the victim girl to depose in a particular manner, which is illegal; that the points raised by the learned counsel petitioner cannot be adjudicated in a quash petition and sought for dismissal of the quash petition. The learned Additional Public Prosecutor also relied upon the statement of the victim girl under Section 164 Cr.P.C and the other records collected by the first respondent to prosecute the petitioner for the alleged offences.

5. Though notice is served on the second respondent and her name is printed in the cause list, none has entered appearance on her behalf. https://www.mhc.tn.gov.in/judis (Uploaded on: 06/01/2026 10:49:29 am) Crl.O.P.(MD)No.17752 of 2024

6. As stated earlier, the allegation is that the petitioner as a lawyer had advised the victim girl and the first accused to depose in a particular manner to the Police and to the other authorities. The petitioner had also advised the victim girl to admit herself in a Home. Even assuming that the petitioner as a lawyer ought not to have given any such advice, this Court is of the view that such an act of the petitioner would not attract the offence under Section 17 of the POCSO Act. In order to attract the said offence, the petitioner must have intentionally instigated the first accused to commit

the offence or intentionally aided or engaged in conspiracy with the accused to commit the offence. There is no such allegation in the impugned final report. The advice is said to have been taken place after the first accused and the victim had voluntarily gone to the office of the petitioner seeking legal advice.

7. The Hon'ble Supreme Court recently in the case of Ashwinkumar Govindbhai Prajapati Vs. State of Gujarat and another reported in 2025 SCC OnLine SC 1384, had held as follows:

> "7. ..The legal profession is an integral component of the process of administration of justice. Counsel, who are engaged in their legal practice apart from their fundamental rights under Article 19(1)(g) of the Constitution of India, have certain rights and privileges guaranteed because of the fact that they are legal professionals and https://www.mhc.tn.gov.in/judis (Uploaded on: 06/01/2026 10:49:29 am) Crl.O.P.(MD)No.17752 of 2024 also due to statutory provisions like Section 132 of BSA. Permitting the Investigating Agencies/Prosecuting Agency/Police to directly summon defence counsel or Advocates, who advice parties in a given case would seriously undermine the autonomy of the legal provision and would even constitute a direct threat to the independence of the administration of justice."

8. In similar circumstances, this Court in the case of D.Veerasekaran Vs State of Tamil Nadu reported in 1992 SCC OnLine Mad 452, had held as follows:

> "20. So, it is clear that the petitioner herein, as an advocate, has given a piece of advice to his client Gundu Santhan alias Santhan with regard to the future course of action that he has to remain absconding for some time. Even assuming for a moment that the petitioner has written the said unsigned letter, I am not able to accept that the petitioner has committed an offence u/S. 3(3) of the TADA Act." The above observations would squarely apply to the facts of the instant case as even assuming that the petitioner had offered an advice, which may be contrary to law, the offence of abetment would not be made out. There is also no allegation that the petitioner as a lawyer had made any real threat on the first accused or the victim girl. Therefore, this Court is of the view that the https://www.mhc.tn.gov.in/judis (Uploaded on: 06/01/2026 10:49:29 am) Crl.O.P.(MD)No.17752 of 2024 impugned prosecution as against the petitioner is an abuse of process of law and therefore liable to be quashed. Accordingly, the impugned final report in Spl.S.C.No.99 of 2024 is quashed only insofar as the petitioner is concerned and the Criminal Original Petition stands allowed. Consequently, connected miscellaneous petition is closed.

NCC : Yes / No
Index : Yes / No
Internet : Yes/ No

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To
1.The Special Court for Exclusive Trial
  cases under POCSO Act,
  Theni.

2.The Inspector of Police,
  Periyakulam Police Station,
  Theni District.

3.The Additional Public Prosecutor,
  Madurai Bench of Madras High Court,
  Madurai.

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Crl.O.P.(MD

SUNDER MOHAN

Crl.O.P(MD).No.17752 of

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