



WEB COPY

BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

DATED: 24.11.2016

CORAM:

**THE HONOURABLE MR. JUSTICE K.KALYANASUNDARAM**

Crl.O.P.(MD).No.22225 of 2016

and

Crl.M.P(MD)No.11513 of 2016

V.Saravanan

.. Petitioner

Vs.

State represented through  
The Inspector of Police,  
All Women Police Station,  
Karur,  
Crime No.11 of 2015.

.. Respondent

**PRAYER:** Criminal Original Petition filed under Section 482 of Cr.P.C. praying to call for the records of the Impugned Order in Crl.M.P.No.305 of 2016 in Spl.S.C.No.2/2016, dated 15.09.2016 passed by the Fast Track Mahila Court, Karur and set aside the same.

For Petitioner : Mr.M.Kannan  
For respondent : Mr.K.Anbarasan,  
Government Advocate (Criminal side)

**ORDER**

This petition is filed against the order passed by the Fast Track Mahila Court, Karur in Crl.M.P.No.305 of 2016.

2.The petitioner along with four other persons are facing a case for the offences under Sections 5(1),6 and 16 and 17 of the POCSO Act, 2012 and Sections 354, 342 and 366 of IPC and Section 4 of the Tamil Nadu Women Harassment Act. The petitioner and other accused filed Crl.M.P.No.305 of 2016 seeking permission to recall the P.W.14 for the purpose of cross-examination. The learned trial Judge dismissed the application. Aggrieved the said order of dismissal, the petitioner has filed the present petition.

3.Mr.M.Kannan, learned counsel appearing for the petitioner would submit that the accused have been falsely roped in the case with an ulterior motive and the alleged victim was examined as P.W.14 on 09.03.2016, further, she was not cross-examined by the



accused for the reason that they did not have the material documents to prove the age of the P.W.14 so they deferred the cross-examination and the subsequent application filed by the petitioner to recall the P.W.14 was dismissed. He further contended that when the accused is charged for the grave offences they should be afforded an opportunity to prove their innocence.

4.The learned counsel for the petitioner would submit that there is no deliberate negligence on the part of the petitioner and therefore, he should be given an opportunity. In support of this case, he relied on the judgment in **P.Sanjeeva Rao vs. State of Andhra Pradesh reported in (2012) 7 SCC 56.**

5.He further submitted that the petitioner is also willing to donate a sum of Rs.25,000/- to the BHARATHAN MUTHUKUMARASAMY PANCHAYAT PRIMARY SCHOOL, T.KALLUPATTI in favour of GOPALAKRISHNAN.R. SB.No.1016101072796 IFSC Code:CNRB0001016, Canara Bank, Peraiyur, Madurai District.

6.Per contra, the learned Government Advocate(Crl.side) would submit that P.W.14 was examined in chief on 09.03.2016 and after lapse of 5 months, this present application is filed and prayed for dismissal of the petition.

7.In the decision referred supra, the Hon'ble Apex Court has held that to meet the ends of justice, the accused should be given an opportunity to cross-examine the witnesses.

8.In the light of the decision of the Hon'ble Supreme Court, the order passed in Crl.M.P.No.305 of 2016 in Spl.S.C.No.2 of 2016, dated 15.09.2016 is set aside and this Criminal Original Petition is allowed on condition that :-

I) The petitioner shall pay a sum of Rs.25,000/- (Rupees twentyfive thousand only) to the BHARATHAN MUTHUKUMARASAMY PANCHAYAT PRIMARY SCHOOL, T.KALLUPATTI in favour of GOPALAKRISHNAN.R. SB.No.1016101072796 IFSC Code:CNRB0001016, Canara Bank, Peraiyur, Madurai District, on or before 02.12.2016.

ii)The petitioner shall cross-examine the P.W.14 on the date of her appearance before the trial Court and complete the cross-examination on the same day.

Consequently, connected miscellaneous petition is also closed.

Sd/  
Assistant Registrar(Writs)

/TRUE COPY/



1. The Inspector of Police,  
All Women Police Station,  
Karur.
2. The Fast Track Mahila Court,  
Karur.
3. The Additional Public Prosecutor,  
Madurai Bench of Madras High Court,  
Madurai.

+1cc to M/s.M.Kannan, Advocate, in SR No.72817.

CrI.O.P(MD)No.22225 of 2016  
24.11.2016

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