



BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

DATED : 14.09.2017

CORAM:

WEB COPY

THE HONOURABLE MR.JUSTICE S.S.SUNDAR

CRL.OP.(MD)No.12126 of 2017 and
CRL.M.P.(MD)No.8392 of 2017

Adaikalam ...Petitioner/Sole Accused
Vs.

State rep. by,
The Sub Inspector of Police,
All Women Police Station,
Kumbakonam,
Thanjavur District.
(Crime No.1 of 2015)

... Respondent/Complainant

PRAYER: Criminal Original petition is filed under Section 482 of Criminal Procedure Code, to call for the records and to set aside the order, dated 30.06.2017 passed in C.M.P.No.514 of 2017 in Spl.S.C.No.14 of 2015 on the file of the learned Sessions Judge, Mahalir Neethimandram, Mahila Court, Thanjavur, Thanjavur District.

For Petitioner : Mr. R.Ilayaraja
For Respondent : Mr.K.Anbarasan,
Government Advocate(Crl.Side).

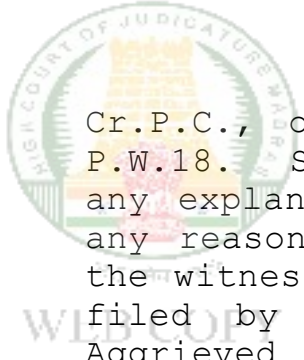
O R D E R

This Criminal Original Petition is filed to set aside the order passed by the learned Sessions Judge, Mahalir Neethimandram, Mahila Court, Thanjavur, Thanjavur District, dated 30.06.2017 in C.M.P.No.514 of 2017 in Spl.S.C.No.14 of 2015.

2. Heard the learned counsel appearing for the petitioner and the learned Government Advocate(Crl.Side) appearing for the respondent.

3. The petitioner is the sole accused in a criminal case which was registered for the offence under Section 6 of POCSO Act 2012, for committing a crime of sexual harassment against a minor child.

4. It is stated that P.W.16 and P.W.18 were examined on 07.10.2016 and 17.11.2016 respectively by the prosecution. However, the petitioner without availing the opportunity of cross examining the witnesses, filed an application under Section 311 of



Cr.P.C., on 15.06.2017, to recall and cross examine P.W.16 and P.W.18. Since the petitioner filed the said application without any explanation for the delay of 8 months and without assigning any reason for not utilising the opportunity of cross examining the witnesses at the relevant point of time, the said application filed by the petitioner was dismissed by the lower Court. Aggrieved by the same, the present Criminal Original petition is filed.

5. The learned counsel for the petitioner submitted that P.W.16 and P.W.18 are Doctors and that their evidence is crucial and unless the petitioner is given an opportunity to cross examine them, it will seriously affect the petitioner's case in defence. It is further submitted that serious prejudice will be caused to the petitioner's case in defence, in case the petitioner is not allowed to cross examine P.W.16 and P.W.18.

6. Though the reasons assigned by the learned Sessions Judge, Mahalir Neethimandram, Mahila Court, Thanjavur District, cannot be faulted, this Court taking into consideration the serious prejudice, that is likely to be caused to the petitioner, if he is not permitted to cross examine P.W.16 and P.W.18 and in the interest of justice, this Court is inclined to give one more opportunity to the petitioner subject to terms.

7. As a result, the Criminal Original petition is allowed and the order passed by the learned Sessions Judge, Mahalir Neethimandram, Mahila Court, Thanjavur District, in Cr.M.P.No.514 of 2017 in Spl.S.C.No.14 of 2015, dated 30.06.2017 is set aside and the petition filed by the petitioner under Section 311 of Cr.P.C., in Cr.M.P.No.514 of 2017 in Spl.S.C.No.14 of 2015 stand allowed, subject to the condition that the petitioner shall deposit a sum of Rs.20,000/- (Rupees Twenty Thousand only) and the said amount shall be deposited in a fixed deposit in the name of the minor victim. The petitioner is also required to cross examine P.W.16 and P.W.18 on the date when they are available, without seeking any further adjournment. Consequently, connected Miscellaneous petition is closed.

Sd/-

Assistant Registrar(CRL. SIDE)

/True Copy/

Sub Assistant Registrar

To

1.The Sessions Judge, Mahalir Neethimandram,
Mahila Court, Thanjavur.

<https://hcservices.ecourts.gov.in/hcservices/>

2.-do-Thro' Principal Sessions Judge, Thanjavur.



3. The Sub Inspector of Police,
All Women Police Station,
Kumbakonam, Thanjavur District.

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

+1cc to Mr.R.ILAYARAJA Advocate in SR. No. 79441

PMU

JS/GT/SAR.2/27.09.2017/3P-6C

CRL.OP.(MD)No.12126 of 2017
14.09.2017