



BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

DATED: 29.11.2017

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CORAM:

THE HONOURABLE MR.JUSTICE S.S.SUNDAR

CRL.OP. (MD) No.15839 of 2017

and

CRL.M.P. (MD) No.10523 of 2017

Balamurugan

... Petitioner

Vs.

The State represented through,
The Inspector of Police,
Kallikudi Police Station,
Madurai District.
(Crime No.311 of 2014)

... Respondent

PRAYER: Criminal Original Petition filed under Section 482 of Code of Criminal Procedure, to call for the records in order of the learned District and Sessions Court (Mahisla), Madurai, in Cr.M.P.No.1293 of 2017 in Spl.S.C.No.17 of 2014, dated 21.09.2017 and set aside the same.

For Petitioner : Mr.M.Gururaj
For Respondent : Mr.K.S.Durai Pandian
Additional Public Prosecutor

ORDER

The Criminal Original Petition is filed to call for the records in order of the learned District and Sessions Court (Mahila), Madurai, in Cr.M.P.No.1293 of 2017 in Spl.S.C.No.17 of 2014, dated 21.09.2017 and quash the same.

2.Heard Mr.M.Gururaj, learned counsel for the petitioner and Mr.K.S.Durai Pandian, learned Additional Public Prosecutor, appearing for the respondent.



3.The petitioner is the sole accused in Crime No.311 of 2014 for the offence under Section 376 (2) I.P.C. Pursuant to the same, charge sheet was filed in Spl.S.C.No.17 of 2014 before the Mahalir Neethimandram, Madurai. During the course of trial, P.W.1 to P.W.5 were examined. The petitioner has filed a petition under Section 311 Cr.P.C, to recall P.W.1 to P.W.5 to cross examine P.W.1 to P.W.5. The said petition was dismissed by the learned District and Sessions Court (Mahalir Neethimandram), Madurai.

4.Aggrieved by the said order dismissing petition filed by the petitioner under Section 311 of Cr.P.C. the present Criminal Original Petition is filed. P.W.1 to P.W.3 were examined in Chief on 11.04.2016 and P.W.5 was examined on 15.11.2016. However, the above witnesses were not cross examined on the side of the petitioner.

5.Learned counsel for the petitioner submitted that the petitioner's application has been dismissed without assigning any reasons by the trial Court for dismissing the application. Following the judgments of the Honourable Supreme Court as well as by this Court, this Court is of the view that the accused need not be shown any indulgence in this case when he is unable to give specific reason to cross examine two witnesses in the petition before the lower Court. It is to be noted that the charge sheet has been filed against the petitioner for offences under Section 376 (2) I.P.C. and under Section 5(m) of Protection of Children from Sexual Offences Act 2012. The victim is the minor. It is also to be noted that the P.W.3 and P.W.4 are minors.

6.Having regard to the nature of allegations made against the petitioner and the other circumstances, this Court is not in a position to show any indulgence to the petitioner. Accordingly, this Criminal Original Petition is dismissed. The trial Court is directed to complete the trial and dispose of the same within six months from



the date of receipt of a copy of this order. Consequently, connected Miscellaneous Petition is closed.

Sd/-

Assistant Registrar (T & P)

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/True Copy/

Sub Assistant Registrar

To

- 1.The Inspector of Police,
Kallikudi Police Station,
Madurai District.
- 2.The Additional Public Prosecutor,
Madurai Bench of Madras High Court,
Madurai.

CRL.OP.(MD) No.15839 of 2017
29.11.2017

gsp

SDS/SV:MMS/SAR 4/22.01.2018/3P/3C