

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 18.04.2018

CORAM

THE HONOURABLE MR.JUSTICE P.N.PRAKASH

Crl.O.P.No.11684 of 2018

and

Crl.M.P.No.6102 of 2018

V.Sivapriyan

.... Petitioner

Vs

The State rep. by
The Inspector of Police,
W-26, A.W.P.S.,
Ashok Nagar,
Chennai-83.

.... Respondent

Prayer:- Criminal Original Petition filed under Section 482 of the Code of Criminal Procedure to call for the records and to set aside the order dated 23.03.2018 passed by the learned Sessions Judge, Mahila Court, Chennai, in Crl.M.P.No.4948 of 2018 in S.C.No.46 of 2017.

For Petitioner :Mr.S.Saravanan

For Respondent :Ms.P.Kritika Kamal,
Government Advocate (Crl.Side)

ORDER

This petition has been filed to set aside the order dated 23.03.2018 passed by the learned Sessions Judge, Mahila Court, Chennai, in Crl.M.P.No.4948 of 2018 in S.C.No.46 of 2017.

2.The petitioner is facing prosecution in S.C.No.46 of 2017 before the learned Sessions Judge, Mahila Court, Chennai, for various offences under POCSO Act. It is seen that the victim girl was examined in Chief on 09.10.2017 and the Advocate has endorsed and stated as "no cross", which has been recorded in the deposition of P.W.1. Thereafter, P.W.2 to P.W.6 were examined by the trial Court. These witnesses have not been cross examined by the accused. When the accused filed a petition in Crl.M.P.No.4948 of 2018 in S.C.No.46 of 2017 for recalling P.W.1 to P.W.6, the trial Court has dismissed the

petition qua P.W.1, but, has allowed the petition with regard to P.W.2 to P.W.6. Challenging the said order, the accused is before this Court.

3.The learned counsel appearing for the petitioner/accused submitted that the accused had married PW1 and that she is being tutored by her parents to give evidence against the accused.

4.In Vinod Kumar v. State of Punjab reported in (2015) 3 SCC 220, the Hon'ble Supreme Court has clearly stated that the witnesses should be cross examined on the same day, when the witnesses are examined in Chief.

5.Following the directions of the Hon'ble Supreme Court, the Registrar General of this Court has issued Circular to all the trial Courts to follow the dictum of the Hon'ble Supreme Court.

6.That apart, under Section 33(5) of the POCSO Act, a victim cannot be asked to come to Court again and again for giving evidence. In such view of the matter, this Court does not find any infirmity in the order passed by the Court below, warranting interference.

In the result, this Criminal Original Petition is devoid of merits and the same is dismissed. Consequently, connected Miscellaneous Petition is closed.

Sd/-
Deputy Registrar (CS)

//True Copy//

सत्यमेव जयते Sub Assistant Registrar

mps

To

1.The Registrar General,
Madras High Court,
Chennai.

2.The Sessions Judge,
Mahila Court,
Chennai.

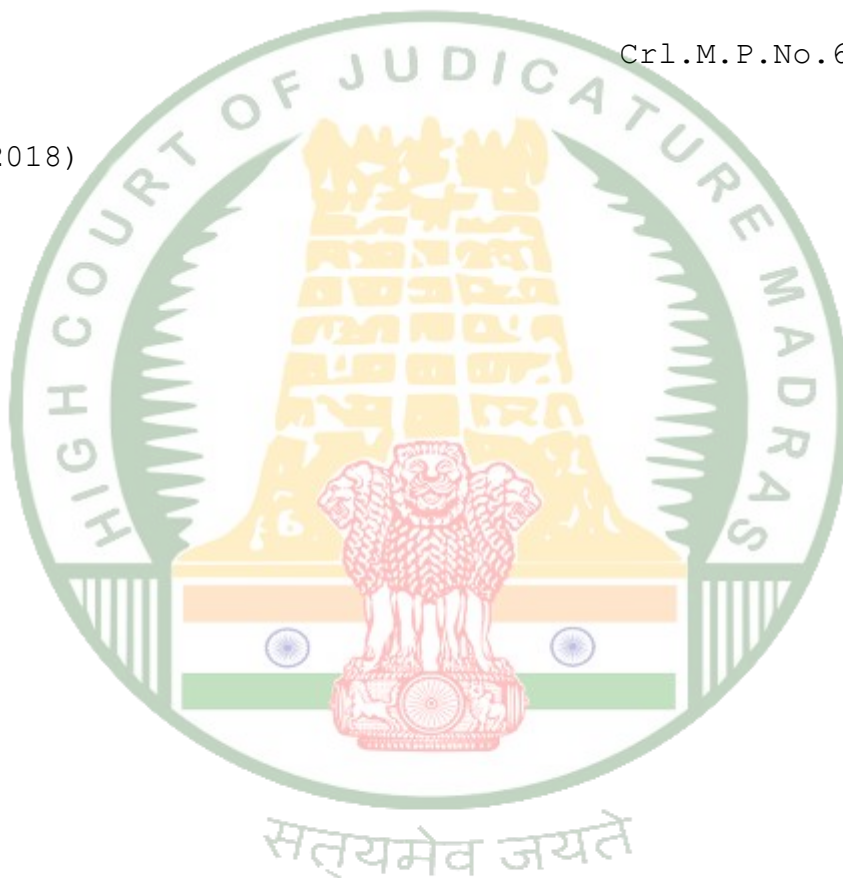
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3.The Inspector of Police,
W-26, A.W.P.S.,
Ashok Nagar,
Chennai-83.

4.The Public Prosecutor,
Madras High Court,
Chennai.

Crl.O.P.No.11684 of 2018
and
Crl.M.P.No.6102 of 2018

TR(07/05/2018)



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