

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 25.02.2019

CORAM:

THE HONOURABLE MR. JUSTICE G.K.ILANTHIRAIYAN

Crl.O.P.No.4956 of 2019

Jagadeesan

... Petitioner

Vs

The State; represented by:
The Inspector of Police,
All Women Police Station,
Melmaruvathur,
Kancheepuram District.

... Respondent

Prayer: Criminal Original Petition filed under Section 482 Cr.P.C. to set aside the order in Crl.M.P.No.2431 of 2018, dated 24.12.2018 in S.C.No.16 of 2017 on the file of Mahila (Sessions) Judge, Chengalpattu.

For Petitioner : Mr.G.Magesh Kumar

For Respondent : Mr.M.Mohamed Riyaz,
Additional Public Prosecutor.

ORDER

This Criminal Original Petition has been filed by the petitioner to set aside the order in Crl.M.P.No.2431 of 2018, dated 24.12.2018 in S.C.No.16 of 2017 on the file of Sessions Judge of [Mahila Court], Chengalpattu.

2. The learned counsel appearing for the petitioner would submit that PW1 to PW13 were cross-examined by the prosecution. The learned counsel further submitted that the petitioner has been falsely implicated for the offences under Sections 354(D) (1)(i), 354(B), 376(i), 506 (i) IPC and r/w Sections 3 & 4 of the Protection of Children from Sexual Offences Act, 2012 [hereinafter referred to as 'POCSO Act'] and he has been disputing the age of the victim girl. PW12-School Head Master was examined and marked school certificate to the effect that the victim girl was aged about 18 years. Therefore, he wants to

cross examine those witness to determine the age of the victim girl.

3. The learned Additional Public Prosecutor would submit that now the matter is posted for arguments and the evidence on the side of prosecution was also closed and evidence on the defence side was also closed. At this stage, it cannot be reopened again.

4. Heard Mr.G.Magesh Kumar, learned counsel appearing for the petitioner and Mr.M.Mohammed Riyaz, learned Additional Public Prosecutor for the respondent.

5. It is seen that the petitioner was charged for the offences under Sections 354(D)(1)(i), 354(B), 376(i), 506 (i) IPC and r/w Sections 3 & 4 of the POCSO Act, 2012. The prosecution examined PW1 to PW13 and PW1 to PW8 were already cross-examined by the petitioner and in respect of PW9 to PW13, they were not cross-examined and also they did not file any petition before the Trial Court. The Trial Court had already closed the prosecution side evidence and the matter was posted for arguments. It is also seen that the PW12 is the School Headmaster through whom the School Certificate was marked to prove the age of the victim girl. Therefore, in respect of proving the age of the victim girl, she has to be necessarily cross-examined by the petitioner. Therefore, this Court finds that the petitioner may be given one more opportunity to cross-examine the witnesses PW9 to PW13.

6. In view of the above reasons, the order in CrI.M.P.No.2431 of 2018, dated 24.12.2018 in S.C.No.16 of 2017 passed by the learned Mahila Sessions Judge, Chengalpattu, is set aside and the petitioner is permitted to cross-examine the witnesses PW9 to PW13 and the Trial Court is directed to issue summons to the effect that the entire cross-examination shall be completed within a period of two weeks from the date of receipt of a copy of this order on payment of necessary charges. If the petitioner fails to cross-examine the witnesses PW9 to PW13 within a stipulated time, the Trial Court is directed to proceed with the matter in accordance with law.

5. With above directions, the Criminal Original Petition is allowed.

Sd/-
Deputy Registrar

//True copy//

Sub Assistant Registrar

msm

To

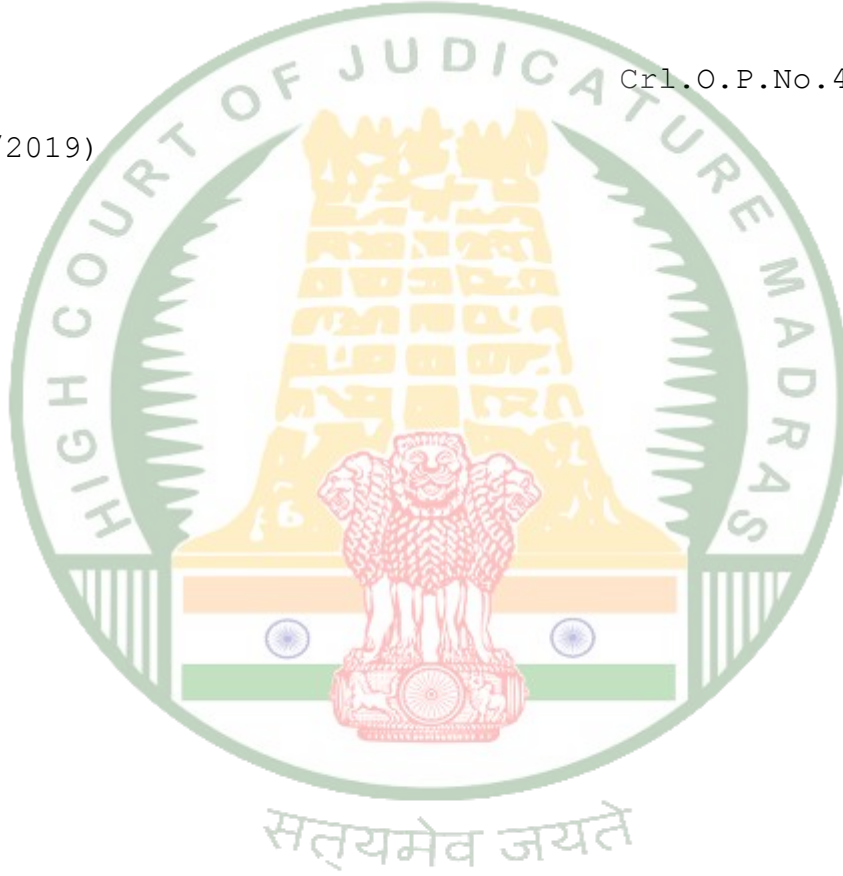
1.The Inspector of Police,
All Women Police Station,
Melmaruvathur,
Kancheepuram District.

2.The Public Prosecutor,
High Court, Madras.

+lcc to Mr.G.Mageshkuamr, Advocate SR.No.17512

Cr1.O.P.No.4956 of 2019

GMV (27/02/2019)



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