

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 13.03.2019

CORAM:

THE HONOURABLE MR.JUSTICE G.K.ILANTHIRAIYAN

Crl.O.P.No.6371 of 2019
and
Crl.M.P.No.3521 of 2019

Senthilkumar

... Petitioner

Vs.

State rep. by its
Inspector of Police, AWPS
Rasipuram Police Station
Namakkal District
(Crime No.6 of 2015)

... Respondent

PRAYER:Criminal Original Petition has been filed under Section 482 of Cr.P.C. to set aside the order dated 12.02.2019 passed in Cr.M.P.No.3 of 2019 in Spl.C.C.No.2 of 2016 on the file of the Sessions (Fast Track Mahila) Judge, Namakkal.

For Petitioner : Mr.W.Camyles Gandhi

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

O R D E R

The Criminal Original Petition has been filed under Section 482 of Cr.P.C. to set aside the order dated 12.02.2019 passed in Cr.M.P.No.3 of 2019 in Spl.C.C.No.2 of 2016 on the file of the Sessions (Fast Track Mahila) Judge, Namakkal.

2.The learned counsel for the petitioner would submit that the respondent police implicated the petitioner in Crime No.6 of 2015 for the offences under Sections 3 r/w 4 of POCSO Act and Section 506(i) IPC. The said case was taken on file at Spl.C.C.No.2 of 2016 before the Sessions (Fast Track Mahila) Judge, Namakkal. During the trial the petitioner filed a petition under Section 311 of Cr.P.C. to recall of PW1 & PW2 for the purpose of further cross examination. The same was dismissed by the learned Sessions Judge. Aggrieved by the said dismissal order the petitioner is before this Court.

3.The learned Additional Public Prosecutor appearing for the respondent would submit that the prosecution has already examined P.W.1 to PW10. While so, the petitioner herein filed a petition to recall PW1 and PW2 alone for further cross examination on the ground that the counsel on record for the petitioner has been changed.

4.Heard the learned counsel for the petitioner as well as the learned Additional Public Prosecutor.

5.It is seen that there is a vital point to put forth to PW1 and PW2 to prove the case of the defence. PW1 and PW2 were already cross examined by the petitioner. According to Section 33(5) of POCSO Act, a victim child should not be called repeatedly and testify her before the Court of law. Therefore, the Trial Court has rightly dismissed the petition filed by the petitioner under Section 311 Cr.P.C.

6.Hence, this Court does not find any illegality or infirmity in the order passed by the Trial Court. Therefore this petition is devoid of merit accordingly dismissed. Consequently, connected miscellaneous petition is closed.

Sd/-
Assistant Registrar(J)

//True Copy//

Sub Assistant Registrar

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To

1.The Sessions (Fast Track Mahila) Judge
Namakkal

2.Inspector of Police, AWPS
Rasipuram Police Station
Namakkal District
(Crime No.6 of 2015)

3.The Public Prosecutor,
High Court, Madras.

+1 cc to Mr.W.Camyles Gandhi, Advocate, S.R.No.23863

Cr1.O.P.No.6371 of 2019
and
Cr1.M.P.No.3521 of 2019

SSM(05/04/2019)