

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 04.04.2019

CORAM

THE HONOURABLE MR. JUSTICE G.K.ILANTHIRAIYAN

CrI.OP No.9189 of 2019
and
CrI.M.P.No.4867 of 2019

1.Jayakumar

2.Selvi @ Stella .. Petitioners

Vs

State rep.by
S.H.O. Orleanpet P.S., through
The Special Public Prosecutor for the State,
Puducherry. .. Respondent

Prayer:- Criminal Original Petition filed under Section 482 Cr.P.C., to call for the records relating to order passed by the Special Judge (Under the POCSO Act) at Puducherry, in CrI.M.P.No.2320 of 2018 in S.C.No.09 of 2017 dated 04.01.2019 and set aside the same and consequently allow the CrI.M.P.No.2320 of 2018 in S.C.No.09 of 2017 dated 04.01.2019.

For Petitioners : Mr.Prakash Adiapadam

For Respondent : Mr.V.Balamurugane
Additional Public Prosecutor
(Puducherry)

O R D E R

This petition has been filed to set aside the order dated 04.01.2019 passed by the Special Judge (Under the POCSO Act) at Puducherry, in CrI.M.P.No.2320 of 2018 in S.C.No.09 of 2017 thereby dismissed the petition filed by the petitioners under Section 311 of Cr.P.C. to recall P.W.1 for the purpose of cross examination.

2.It is seen that the petitioners are A1 and A2, they are charged for the offence under POCSO Act. Though P.W.1/victim

was examined on 12.01.2018, she was not cross examined by the counsel for the petitioners/accused. Thereafter, the petitioners filed 311 petition to cross examine P.W.1 and the same was allowed, directing to cross examine P.W.1 on 12.10.2018. On that day, the learned counsel for the petitioners did not cross examine P.W.1, for the reason that the counsel who appeared on behalf of the petitioners attended interview at Notary Public, Chennai.

3.Considering the facts and circumstances, this Court feels that the petitioners may be given one more opportunity to put fourth their defence. Accordingly, the order dated 04.01.2019, passed by the learned Special Judge (Under the POCSO Act) at Puducherry, in Crl.M.P.No.2320 of 2018 in S.C.No.09 of 2017, is hereby set aside and the petitioners are permitted to cross examine P.W.1 on the next hearing date by payment of necessary charges. If the petitioners failed to cross-examine P.W.1, on the date fixed by the trial Court, the trial Court is directed to proceed with trial in accordance with law.

4.With the above directions, this Criminal Original Petition is allowed. Consequently, connected miscellaneous petition is closed.

AT

Sd/-
Assistant Registrar(CS IV)

//True Copy//

Sub Assistant Registrar

To

1. The Special Judge,
(Under the POCSO Act) सत्यमेव जयते
at Puducherry.

2. The S.H.O. Orleanpet P.S.,through

+1cc to Mr.E.Anbarasan, Advocate, SR.No. 32569
+1cc to the Public Prosecutor, Vide Sr.No.33611

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Kak(05/04/2019)