



BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

DATED : 26.09.2019

CORAM:

WEB COPY

THE HONOURABLE MR. JUSTICE **G.K.ILANTHIRAIYAN**

Crl.O.P. (MD).No.11765 of 2019

and

Crl.M.P. (MD)No.7393 of 2019

Manikandan

... Petitioner

Vs.

The Inspector of Police
Maruvor Police Station,
Thanjavur District
Crime No. 87 of 2016

.. Respondent

PRAYER: This Criminal Original Petition has been filed under Section 482 of Criminal Procedure Code, to call for the records and set aside the order dated 02.08.2019 passed in Crl.M.P.No.800 of 2018 in S.S.C.No. 25 of 2017 on the file of the Sessions Judge, Mahalir Neethimandaram (Fast Track Mahila Court) Thanjavur Thanjavur District.

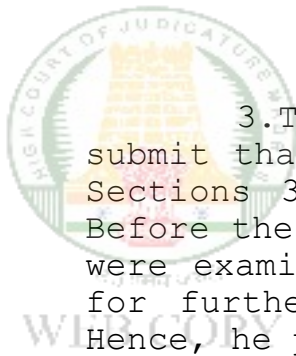
For Petitioner : Mr.A.Thiruvadi Kumar

For Respondent : Mr.K.Suyambulinga Bharathi
Government Advocate (crl.side)

O R D E R

This petition has been filed challenging the order dated 02.08.2019 passed in Crl.M.P.No.800 of 2018 in S.S.C.No. 25 of 2017 on the file of the Sessions Judge, Mahalir Neethimandaram (Fast Track Mahila Court) Thanjavur Thanjavur District, thereby, dismissing the application filed by the petitioner under Section 311 of the Code of Criminal Procedure to cross-examine P.Ws.1 and 2.

2.The learned counsel for the petitioner would submit that the petitioner has been charged for the offences under Sections 366, 342 I.P.C. and under Section 6 of POCSO Act, 2012. The trial Court examined P.Ws.1 and 2 and marked relevant documents during the chief examination of P.Ws.1 and 2. At that time, the petitioner was arrested and remanded into judicial custody and as such the petitioner could not examine the witnesses viz., P.Ws.1 and 2. Therefore, he filed a petition to recall the witnesses P.Ws.1 and 2 before the trial Court and the trial Court, without considering the same, dismissed the petition. Hence, the petitioner filed this petition before this Court.



3.The learned Government Advocate (criminal side) would submit that the petitioner has been charged with the offences under Sections 366, 342 I.P.C. and under Section 6 of POCSO Act, 2012. Before the trial Court, the prosecution witnesses viz., P.Ws.1 and 2 were examined as early as on 22.06.2018. Now the matter is posted for further examination of witnesses on the prosecution side. Hence, he prayed for dismissal of this petition.

4.Heard the learned counsel for the petitioner and the learned Government Advocate (criminal side) for the respondent.

5.The petitioner has been charged for the offences under Sections 366, 342 I.P.C. and under Section 6 of POCSO Act, 2012, and he was arrested and remanded to judicial custody, and he was in judicial custody, when the prosecution side examined the witnesses viz., P.Ws.1 and 2 on 22.06.2018. Therefore, the petitioner could not cross examine the prosecution witnesses viz., P.Ws.1 and 2.

6.Considering the above facts and circumstances of the case, this Court feels that the petitioner may be given one more opportunity to put fourth his defence. Accordingly, the order dated 02.08.2019 passed in Crl.M.P.No. 800 of 2018 in S.S.C.No. 25 of 2017 on the file of the Sessions Judge, Mahalir Neethimandaram (Fast Track Mahila Court) Thanjavur Thanjavur District, is hereby set aside and the petitioner is permitted to cross examine P.W.1 and P.W.2 on the date fixed by the trial Court on payment of necessary charges. If the petitioner failed to cross-examine P.W.1 and P.W.2, the trial Court is directed to proceed with trial in accordance with law.

7.With the above directions, this Criminal Original Petition is allowed. Consequently, connected Miscellaneous Petition is closed.

Sd/-

Assistant Registrar ()

// True Copy //

Sub Assistant Registrar(CS)

To

1. The Sessions Judge,
Mahalir Neethimandaram
(Fast Track Mahila Court)
Thanjavur Thanjavur District.



2. The Inspector of Police
Maruvloor Police Station,
Thanjavur District.

3. The Additional Public Prosecutor,
Madurai Bench of Madras High Court,
Madurai.

+1 CC to Mr.A.THIRUVADI KUMAR, Advocate (SR-89959[F] dated
27/09/2019)

Crl.O.P. (MD) .No.11765 of 2019
26.09.2019

Ls
VB(22.10.2019) 3P 5C