



BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

DATED : 03.09.2019

CORAM:

THE HONOURABLE MR. JUSTICE G.K.ILANTHIRAIYAN

Crl.O.P(MD) No.12279 of 2019

Sarankumar

... Petitioner/Petitioner/Accused

Vs.

The State rep. by
The Inspector of Police
Ganesh Nagar Police Station
Pudukottai District

... Respondent/Respondent/Complainant

PRAYER: Criminal Original Petition filed under Section 482 of Cr.P.C. praying to set aside the order passed in Crl.MP. No.336 of 2019 dated 26.07.2019 in Spl.S.C. No.21 of 2017 on the file of the Sessions Judge Mahila Court, Pudukkottai

For Petitioner : Mr K.G.Arun Kumar

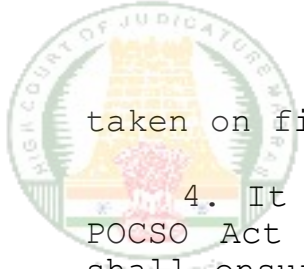
For Respondent : Mr.K.Suyambulinga Bharathi
Government Advocate(Crl.Side)

O R D E R

This petition has been filed to set aside the order passed in Crl.MP. No.336 of 2019 dated 26.07.2019 in Spl.S.C. No.21 of 2017 on the file of the Sessions Judge Mahila Court, Pudukkottai

2. The learned Counsel appearing for the petitioner would submit that PW2/victim girl was cross examined on 05.02.2017 on the date of chief examination itself. He would further submit that vital portions were not asked to the victim girl on the date of chief examination. He would further submit that he has filed the petition under Section 311 Cr.P.C before the learned Sessions Judge, Mahila Court, Pudukottai to cross examine PW2 to PW 5 and PW 7 to PW 9 and the Sessions Court allowed the petition only in respect of PW.3 to 5 and PW.7 to PW.9 alone. Hence he has filed the present petition to recall PW2/victim girl before this Court.

3. The learned Government Advocate(Crl.Side) would submit that there is a specific bar under Section 33(5) of the POCSO Act. According to Section 33(5) of the POCSO Act, the victim girl is not called repeatedly to testify to the court. He would further submit that the crime is of the year 2017 and the charge sheet has been



taken on file in Spl.S.C.No.21 of 2017.

4. It is seen that the provisions under Section 33(5) of the POCSO Act has a specific condition that that the Special Court shall ensure that the child is not called repeatedly to testify in the Court. The victim girl was examined on 05.12.2017 and she was cross examined on the same day by the petitioner. Further the victim girl is aged about 16 years and she cannot be repeatedly called for examination.

5. In view of the above discussion, this Court finds no irregularity or infirmity in the order passed by the court below and hence the petition is dismissed.

Sd/-

Assistant Registrar (P&A)

// True Copy //

Sub Assistant Registrar(CS)

To

1. The Sessions Judge, Mahila Court,
Pudukkottai
2. The Inspector of Police
Ganesh Nagar Police Station
Pudukkottai District
3. The Additional Public Prosecutor
Madurai Bench of Madras High Court, Madurai.

Cr1.O.P(MD) No.12279 of 2019
03.09.2019

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