



BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

DATED: 13.11.2019

CORAM:

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

Crl.O.P. (MD) No.16483 of 2019

and

Crl.M.P (MD) No.9777 of 2019

WEB COPY

Suresh

...Petitioner

Vs.

The State rep.by
The Inspector of Police
All Women Police Station
Papanasam
Thanjavur District

...Respondent

PRAYER: Criminal Original Petition filed under Section 482 Cr.P.C. praying to to call for the records on the file of the learned Sessions Judge, Mahalir Neethimandrum, Fast Track Mahila Court, Thanjavur in Crl.M.P.No.869 of 2019 in S.S.C.No.10 of 2013 dated 18.10.2019 and set aside the same by allowing this petition.

For Petitioner : Mr.B.Senthil Kumar

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

ORDER

This petition has been filed challenging the order passed by the learned Sessions Judge, Mahalir Neethimandrum, Fast Track Mahila Court, Thanjavur in Crl.M.P.No.869 of 2019 in S.S.C.No.10 of 2013 dated 18.10.2019, thereby dismissing the application filed by the petitioner under Section 311 of Cr.P.C for recalling PW.1 to PW.7

2. On persual of the record, it is revealed that the petitioner is the sole accused and the case has been taken cognizance for the offence under Section 376 of IPC and Sections 7 and 8 of the POCSO Act. The case is of the year 2013. PW.1 to PW 7 were examined in chief on 17.03.2014 . At the time of chief examination of the prosecution witness the petitioner did not cross examine the witness. Therefore he filed petition under Section 311 of Cr.P.C to recall the witnesses and the same was allowed and the petitioner cross examined PW 1 and PW 2 on 21.08.2014, PW.3 to P.W 5 on 27.08.2014 and P.W.6 & 7 on 15.09.2014. Again the petitioner filed another petition to cross examine the very same witness under Section 33(5) of the Protection of Children from Sexual Offences Act, wherein it is clearly stated that the victim cannot be repeatedly call for



examination, which is clearly barred under the said section. It is relevant to extract Section 33(5) of the Protection of Children from Sexual Offences Act:

"The evidence of the child shall be recorded within a period of thirty days of the Special Court taking cognizance of the offence and reasons for delay, if any, shall be recorded by the Special Court

(2) The Special Court shall complete the trial, as far as possible, within a period of one year from the date of taking cognizance of the offence"

3. Further under Section 33(5) of the Protection of Children from Sexual Offences Act, the trial court shall complete the trial within a period of one year date of taking cognizance. Here in the case of hand, the case has been taken cognizance in the year 2013 as Spl.S.C.No. 10 of 2013 and it is pending for the past six years. Therefore the trial court has rightly dismissed the petition filed by the petitioner under Section 311 of Cr.P.C.

4. Therefore, this Court find no infirmity or illegality in the order passed by Court below. Hence the Criminal Original Petition stands dismissed. Consequently connected miscellaneous petition is also dismissed.

Sd/-

Assistant Registrar ()

// True Copy //

Sub Assistant Registrar(CS)

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To

1. The Sessions Judge, Mahalir Neethimandrum,
Fast Track Mahila Court, Thanjavur

2.The Inspector of Police
All Women Police Station
Papanasam
Thanjavur District

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

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