

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 02.06.2020

CORAM

THE HONOURABLE MR. JUSTICE G.K.ILANTHIRAIYAN

Crl.O.P.No.6912 of 2020

1.P.Manikandan
2.Syndicate @ Ponnusamy
3.Lakshmi

...Petitioners

-Vs-

The State Represented by
Inspector of Police,
Velur Police Station,
Namakkal District
Crime No.600 of 2014

... Respondent

Prayer: Criminal Original petition filed under Section 482 of the Code of Criminal Procedure, against the order dated 29.01.2020 made in Cr.M.P.No.903 of 2019 in SC.No.71 of 2015 on the file of the Session (Fast Track Mahila) Judge, Namakkal.

For Petitioners: Mr.T.Gopinathan

For Respondent : Mr.C.Raghavan,
Government Advocate

ORDER

This Criminal Original Petition has been filed challenging the order dated 29.01.2020 passed in Crl.MP.No.903 of 2019 in SC.No.71 of 2015, thereby dismissing the application filed by the petitioners to recall PW1 to PW3, PW6, PW7 in SC.No.71 of 2015 on the file of the Session (Fast Track Mahila), Namakkal.

2. The learned counsel for the petitioners submitted that PW1 to PW3 were examined on 03.12.2018. PW6 and PW7 were examined on 29.09.2019. Unfortunately, the counsel on record due to personal inconvenience could not cross examine the prosecution witnesses. Now the counsel has been changed for the petitioners A1 to A3 and as such if the petitioners are not permitted to cross examine, they cannot put fourth their defence. Therefore, he prays to allow this petition.

3. The learned Government Advocate would submit that the petitioners are arrayed as A1 to A3. The case is of the year 2015. So far, the prosecution have examined PW1 to PW7, and the charges are very serious in nature. He further submitted that under Section 33 (5) Pocso Act, the victim cannot be repeatedly asked for examination. Hence, he prayed for dismissal of this petition.

4. It is seen that the petitioners are arrayed as A1 to A3. The case is of the year 2015. The prosecution have examined PW1 to PW3 on 03.12.2018 and the PW6 and PW7 have been examined on 29.09.2019. Even then, the petitioners' counsel did not cross examine the prosecution witnesses, due to his personal inconvenience. Thereafter, the petitioners have engaged another counsel and filed petition under Section 311 Cr.P.C. to cross examine prosecution witnesses PW1 to PW3, PW6 and PW7. The victim girl who is aged about 13 years, was examined as PW1. Insofar as the other witnesses are concerned, her parents and other witnesses.

5. Considering the facts and circumstances of the case, this Court is inclined to permit the petitioners to cross examine PW1, PW6 and PW7 alone. Accordingly, the order dated 29.01.2020 passed by the Session (Fast Track Mahila) Judge, Namakkal in Cr.MP.No.903 of 2019 in SC.No.71 of 2015 is set aside insofar as PW1, PW6 and PW7 are concerned. The petitioners are permitted to cross examine PW1, PW6 and PW7 on the date fixed by the trial court by payment of necessary charges. If the petitioners fail to cross-examine P.W.1, PW6 and PW7 on the date fixed by the trial court, the trial Court is directed to proceed with trial in accordance with law.

6. With the above directions, this Criminal Original Petition is disposed of.

Sd/-

Assistant Registrar

//True Copy//

Sub Assistant Registrar

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To

1.The Session (Fast Track Mahila) Judge,
Namakkal.

2.The Inspector of Police,
Velur Police Station,
Namakkal District

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3. The Public Prosecutor,
High Court, Madras.

Cr1.O.P.No.6912 of 2020

AD(CO)
CB(21/09/2020)



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