

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 05.08.2020

CORAM

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

CRL.O.P.No. 11768 of 2020

Ruban
S/o. Krishnasamy,
Karumalai Top Division,
Valparai, Coimbatore District. ... Petitioner

Vs

State represented by
The Sub Inspector of Police,
All Women Police Station,
Pollachi, Coimbatore District. ... Respondent

PRAYER: Criminal Original Petition filed under Section 482 of Cr.P.C, praying to set aside the order dated 18.03.2020 made in Crl.M.P.No.33 of 2020 in Special C.C.No.96 of 2019 on the file of the Special Court for Exclusive Trial of Cases under POCSO Act, Coimbatore and permit the petitioner to recall and cross examine the witnesses Nos. P.W.1 to P.W.3

For Petitioners : Mr.A.Sarath Chandran
for R.Sasikumar
For Respondent : Mr.S.Karthikeyan,
Additional Public Prosecutor.

ORDER

This petition has been filed for challenging the order passed in order dated 18.03.2020 made in CrI.M.P.No.33 of 2020 in Special C.C.No.96 of 2019 on the file of the Special Court for Exclusive Trial of Cases under POCSO Act, Coimbatore.

2. The learned counsel for the petitioner would submit that the petitioner has been charged for the offences under Sections 9 (m), 10, 11(1), 12 of POCSO Act 2012 and the petitioner is a sole accused. While prosecution examined P.W.1 to P.W.3, the petitioner did not engage the proper counsel to defend his case before the trial Court. P.W.1 to P.W.3 were examined in chief on 08.01.2019 and the petitioner did not cross examine P.W.1 to 3 for the reason that he wants to engage senior counsel and prayed time. Thereafter, counsel for the petitioner engaged senior counsel and cross examined other witnesses P.W.4 to P.W.7 insofar as P.W.1 to P.W.3 are concerned, the petitioner may be permitted to cross examine to defend his case in a proper manner.

3. The learned Additional Public Prosecutor submitted that the petitioner is a sole accused and he has been charged for the offences under Sections 9 (m), 10, 11(1), 12 of POCSO Act 2012. As per the prosecution P.W.1 to P.W.7 were cross examined and the matter is posted for further evidence. The petitioner already engaged a counsel on record and failed to cross examine P.W.1 to P.W.3 and thereafter he changed his counsel and subsequently the counsel examined the other prosecution witnesses. Therefore he seeks to dismiss the petition.

4. Heard the learned counsel for the petitioner and the learned Additional Public Prosecutor appearing on behalf of the respondent.

5. It is seen that the petitioner is a sole accused and he has been charged for the offences under Sections 9 (m), 10, 11(1), 12 of POCSO Act 2012. P.W.1 is the mother of the victim P.W.2 is the victim and P.W.3 is the father of the victim. While examining P.W.1 to P.W.3 in chief, the petitioner could not cross-examine P.W.1 to P.W.3, on the date of chief examination itself for the reason that he wants to engage senior counsel to

defend his case before the trial Court. After engaging another counsel cross examined on behalf of the petitioner in respect of P.Ws.4 to 7.

6. Considering the facts and circumstances of the case, the petitioner may be given one more opportunity to cross examine P.W.1 to P.W.3. Accordingly, the order dated 18.03.2020 made in CrI.M.P.No.33 of 2020 in Special C.C.No.96 of 2019 on the file of the Special Court for Exclusive Trial of Cases under POCSO Act, Coimbatore, is hereby set aside and the petitioner is permitted to cross examine P.W.1 to P.w3 on payment of necessary charges on the date fixed by the trial Court and if the petitioner fails to cross-examine P.W.1 to 3 on the date fixed by the trial, the trial Court is directed to proceed with trial in accordance with law.

In the result, this Criminal Original Petition is allowed.

05.08.2020

Internet:Yes

Index:Yes/no

Speaking/Non speaking order

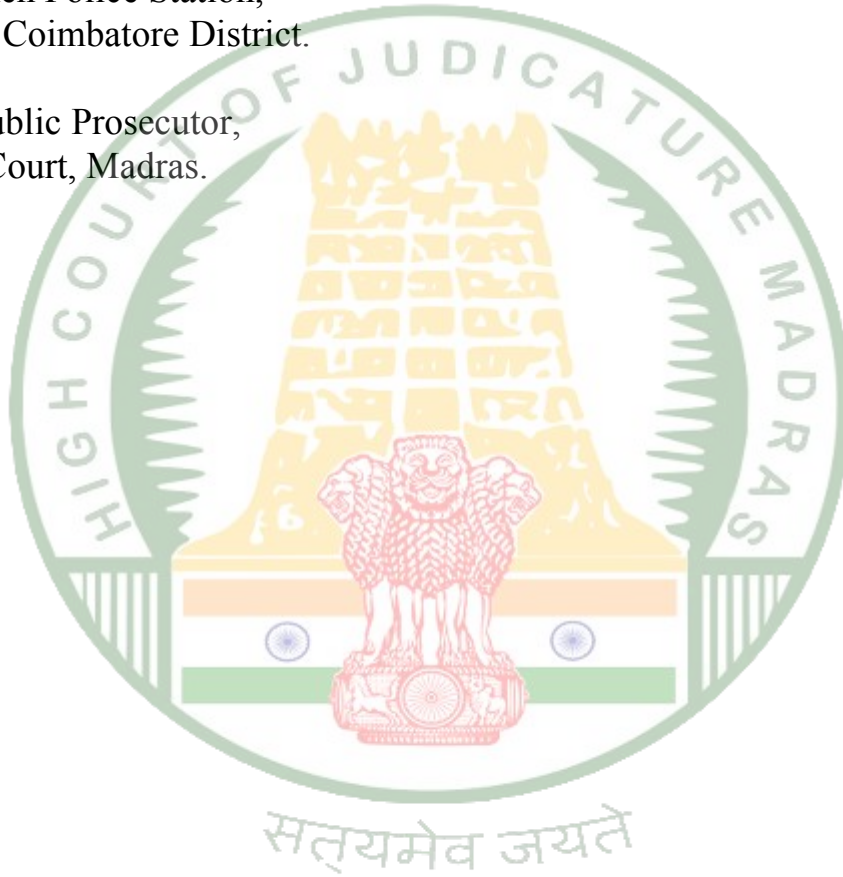
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To

1. The Special Court for Exclusive Trial
of Cases under POCSO Act, Coimbatore.

2. The The Sub Inspector of Police,
All Women Police Station,
Pollachi, Coimbatore District.

3. The Public Prosecutor,
High Court, Madras.

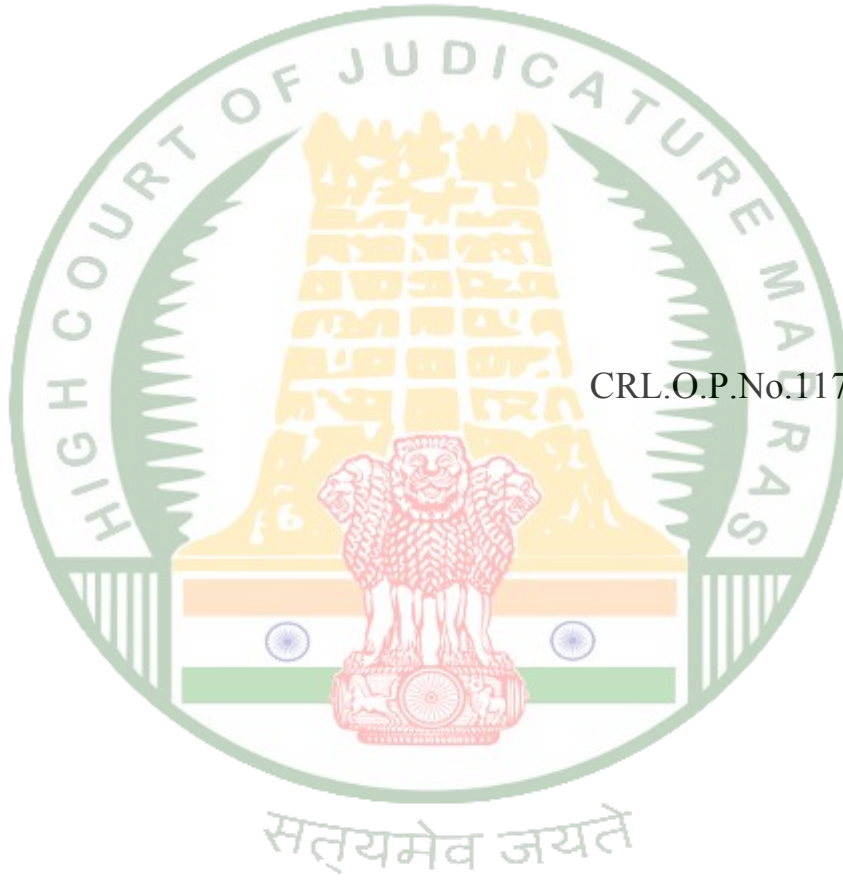


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