

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 24.01.2020

C O R A M

THE HONOURABLE Mr.JUSTICE R.MAHADEVAN

Criminal Revision Case No.1307 of 2019 and
Crl.M.P.No.17683 of 2019

Ruban

.. Petitioner

Vs

State by Inspector of Police,
All Women Police Station,
Villivakkam,
Chennai.

.. Respondent

Criminal Revision Case is filed under Section 397 read with 401 of Cr.P.C. seeking to set aside the order dated 11.11.2019 passed in Crl.M.P.No.24044/2019 in S.C.No.212 of 2019 on the file of the Sessions Judge, Mahalir Needhi Mandram, Chennai.

For petitioner Mr.C.Rajan

For Respondent Mr.K.Prabakar, Addl. P.P.

O R D E R

The Criminal Revision Case is filed seeking to set aside the order dated 11.11.2019 passed in Crl.M.P.No.24044/2019 in S.C.No.212 of 2019 by the learned Sessions Judge, Mahila Court, Chennai.

2. The petitioner is an accused in S.C.No.212/2019 on the file of the learned Sessions Judge, Mahila Court, Chennai for an offence under Section 6 of POCSO Act, 2012. He filed Crl.M.P.No.24044/2019 in S.C.No.212/2019 under Section 231(2) of Cr.P.C. seeking to defer the cross-examination of P.W.1 in the interest of justice. The same was dismissed by the learned Sessions Judge by order dated 11.11.2019. The relevant portion is extracted here under:

'4. On perusal of records, it is seen that Thiru S.P.Meenakshi Sundaram has filed Memo of appearance along with two other counsels for the accused on 18.07.19 and that has been mentioned in the proceedings also. Once again, the same counsel has filed a new memo of appearance today along with some other

counsels. Since the earlier counsel Thiru S.P.Meenakshi Sundaram is the same counsel who has filed the memo of appearance today, the petitioner cannot claim that he has changed his counsel only today and hence the cross of P.W.1 should be deferred.

5. As per Sec.33(5) of POCSO Act, the victim child should not be called repeatedly in order to recall the horror incident. In such circumstances, the petitioner cannot be allowed to drag the proceedings on the pretext that he has changed the counsel. Hence this court does not find any merits in this application. In the result, this petition is dismissed''

3. I find no illegality or infirmity in the order passed by the learned Sessions Judge, Mahila Court, Chennai. Anyhow, if the petitioner is aggrieved by the order of the trial court, he can very well file a petition under Section 311 of Cr.P.C. with regard to the re-calling of P.W.1 for re-examination on the basis of the materials available with him. If any such petition is filed, the trial Court shall consider the same and pass appropriate orders, on merits and in accordance with law.

4. With the above observation, the Criminal Revision Case is disposed of. Consequently, connected Miscellaneous Petition is closed.

s/d-
Assistant Registrar(CS-III)

True Copy

Sub-Assistant Registrar

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To

1.The Sessions Judge, Mahila Court, Chennai.

2. The Inspector of Police,
All Women Police Station,
Villivakkam,
Chennai.

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Cr1.R.C.1307 of 2019

RR(CO)
SP(26/02/2020)