



BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

DATED: 10.03.2020

CORAM:

WEB COPY

THE HONOURABLE MR.JUSTICE G.R.SWAMINATHAN

Crl.O.P (MD)No.4328 of 2020

Ramesh

... Petitioner

Vs

State Rep by
The Inspector of Police,
Kabistalam Police Station,
Thanjavur District.
Cr.No.33/2014

... Respondent

PRAYER: Petition filed under Section 482 Code of Criminal Procedure, to call for the records and set aside the order dated 20.02.2020 made in Crl.M.P.No.14 of 2019 in Spl.S.C.No.01 of 2019 on the file of the learned Sessions Judge, Special Court for Exclusive Trial Cases under POCSO Act, Thanjavur District and allow the above petition.

For Petitioner : Mr.K.M.Karunakaran

For Respondent : Mr.A.Robinson

Government Advocate (Crl.side)

ORDER

The petitioner is facing trial in Special S.C.No.1 of 2019 on the file of the Sessions Judge, Special Court for Exclusive Trial Cases under POCSO Act, Thanjavur, for the offences under Section 6 of POCSO Act and 506(i) of IPC.

2.The petitioner filed Crl.M.P.No.14 of 2019 for recall of P.W.3 and P.W.6. The said petition was dismissed by the learned trial Judge vide order dated 20.02.2020. Challenging the same, this petition has been filed.

3. Section 33(5) of the POCSO Act, 2012, states that the Special Court shall ensure that the victim is not called repeatedly to testify. In this case, P.W.3 is the relative of the victim, while P.W.6 is the victim herself. The Court below has correctly cited the relevant case laws. Therefore, the order passed by the Court below as regards the recall of the victim is sustained and confirmed. However, the other witness namely P.W.3, who is only a



relative of the victim, can be permitted to be recalled.

4.I am granting one more opportunity to the petitioner only in the interest of justice. P.W.3 was examined on 25.09.2015. The recall petition has been filed after a gap of four years. The petitioner is willing to pay a sum of Rs.2,000/- to the said witness as cost. The petitioner shall take a demand draft for a sum of Rs.2,000/- favouring P.W.3 and enclose the same along with the process memo. After the said witness turns up for cross examination, the petitioner will cross examine the said witness on the same day, on which, she appears. The petitioner will not adopt in any dragging on tactics. The demand draft will be handed over to the victim after the deposition is over. Even though the order passed by the Court below is absolutely justified, I am giving partial relief to the petitioner.

5.Taking note of the overall facts and circumstances, the impugned order is partly modified. This criminal original petition is partly allowed.

Sd/-

Assistant Registrar (CrIs.side)

// True Copy //

/ /2020

Sub Assistant Registrar(CS)

To

1. The Sessions Judge,
Special Court for Exclusive Trial Cases under POCSO Act,
Thanjavur District.
2. The Inspector of Police,
Kabistalam Police Station,
Thanjavur District.
3. The Additional Public Prosecutor,
Madurai Bench of Madras High Court,
Madurai.

+2 CC to M/s.K.M.KARUNAKARAN, Advocate (SR-10821 & 10944[F] dated 10/03/2020)

RMI

TE : 17/03/2020 : 2P/6C

Crl.O.P (MD)No.4328 of 2020
10.03.2020