



BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

DATED : 07.12.2020

CORAM :

**THE HONOURABLE MRS.JUSTICE J.NISHA BANU**

CRL.O.P.(MD)No.14182 of 2020

Kalimuthu

... Petitioner/Accused

vs.

State Represented by the  
Deputy Superintendent of Police,  
Rajapalayam Sub Division,  
Virudhunagar District,  
All Women Police Station in  
Cr.No.02/2011

... Respondent/Complainant

**PRAYER** : Criminal Original Petition is filed under Section 482 of Cr.P.C, to set aside the impugned order passed by the learned Sessions Judge, Special Court for Trial of SC/ST (POA) Act, Virudhunagar at Srivelliputhur in Crl.M.P.No.459 of 2020 in Spl.S.C.No.05 of 2013, dated 13.03.2020 by allow this petition for recalling the PW1 to 3 for cross examination.

For Petitioner: Mr.S.A.S.Alaudeen

For Respondent: Mr.V.Neelakandan

Additional Public Prosecutor

### **O R D E R**

This Criminal Original Petition has been filed to set aside the impugned order passed by the learned Sessions Judge, Special Court for Trial of SC/ST (POA) Act, Virudhunagar at Srivilliputhur in Crl.M.P.No.459 of 2020 in Spl.S.C.No.05 of 2013, dated 13.03.2020 by allow this petition for recalling the PW1 to 3 for cross examination.

2.The learned counsel for the petitioner would state that the petitioner is the accused in Crime No.2 of 2011 registered on the file of All Women Police Station, Rajapalayam, for the offences under Sections 417, 376 IPC and 3(1)(x), 3(x11), 3(2)(v) of SC/ST Act and charge sheet has been filed by the respondent and it has been numbered as Spl.S.C.No.05 of 2013 by the Special Court for trial of SC/ST (POA) Act Cases, Srivilliputtur. On 24.01.2020, the trial Court examined PW1 to PW3 in Chief, but since the revision petitioner was suffering from jaundice from 10.01.2020, he could not give proper instructions to his counsel for better cross examination of PW1 to PW3. Therefore, he filed recall petition to recall PW1 to PW3, but the same was dismissed by the trial Court by the impugned order dated 13.03.2020 holding that PW1 to PW3 were cross examined



by the defence side and PW1 was elaborately cross examined. The learned counsel would state that though prosecution side made no objection endorsement, the trial Court without considering the same, has erroneously dismissed the recall petition. Thus, he would pray for quashing the said order.

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3.The learned Additional Public Prosecutor would state that the petitioner's counsel had elaborately cross examined PWs.1 to 3 and the recall petition has been filed only to protract the proceedings and the trial Court has rightly dismissed the petition and therefore, the interference of this Court is not necessary.

4.Heard the learned counsel for the petitioner as well as the learned Additional Public Prosecutor.

5.Perusal of the deposition of the witnesses PWs.1 to 3 shows that the witnesses were elaborately cross examined and in my considered opinion, the filing of the recall petition itself is to protract the proceedings and the same has been rightly dismissed by the trial Court and therefore, I am not inclined to interfere with the order dated 13.03.2020 passed by this Court.

Accordingly, this Criminal Original Petition is dismissed.

Sd/-

Assistant Registrar ()

// True Copy //

/ /2020

Sub Assistant Registrar(CS)

bala/rm

Note : In view of the present lock down owing to COVID-19 pandemic, a web copy of the order may be utilized for official purposes, but, ensuring that the copy of the order that is presented is the correct copy, shall be the responsibility of the Advocate / litigant concerned.

To

- 1.The Sessions Judge,  
Special Court fo Trial of SC/ST(POA) Act,  
Virudhunagar at Srivelliputhur
- 2)The Deputy Superintendent of Police,  
Rajapalayam Sub Division,  
Virudhunagar District,  
(All Women Police Station in Cr.No.2/2011)

<https://hcservices.ecourts.gov.in/hcservices/>



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

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ORDER MADE IN

Cr1.O.P.(MD)No.14182 of 2020

DATED : 07.12.2020

KUN (CO)

NR (21/12/2020) 3P : 4C