

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 08.03.2021

CORAM

THE HONOURABLE MR. JUSTICE N. ANAND VENKATESH

Crl.O.P No.4540 of 2021

Crl MP No.2902 of 2021

Jayakumar

... Petitioner/Petitioner /
Accused

vs.

State by the Inspector of Police,
W-1 All Women Police Station,
Thousand Light,
Chennai 600 006.

... Respondent/Respondent
Complainant

PRAYER: Criminal Original Petition filed under Section 482 of the Code of Criminal Procedure, to set aside the order of dismissal and passed by the learned Special Court for Exclusive Trial of Cases under POCSO Act, Chennai, in Crl. MP. No.366 of 2020 dated 30.09.2020 as against in the recall petition to recall the witnesses.

For Petitioner : Mr.N.Selvarajan

For Respondents: Mr.C.Raghavan

Government Advocate (crl. Side)

For R1

ORDER

This petition has been filed challenging the order passed by the Court below dismissing the application filed by the petitioner under Section 311 of the Code of Criminal procedure, seeking to recall P.W.1 and P.W.2 for cross-examination and to recall P.W.3 to P.W.6 for further cross-examination.

2. The petitioner is facing trial before the Court below for an offence under Section 6 of the POCSO Act and Section 506 (i) of IPC. The prosecution had examined P.W.1 to P.W.6. The petitioner did not cross-examine any of these witnesses. The petitioner therefore filed an application in Crl. MP No.26743 of 2019 under Section 311 of the Code of Criminal Procedure, to recall the witnesses for cross-examination.

3. The Court below allowed the application by an order dated 10.12.2019 and made it clear that the petitioner will cross-examine these witnesses on the date of their appearance without making them wait and it was also made clear that if the petitioner fails to cross-examine those witnesses, he will forfeit his right to cross-examine those witnesses in future.

4. Pursuant to the orders passed by the Court below, P.W.1 and P.W.2 were present in the Court and they waited for considerably long time and they were not cross-examined and hence their evidence was closed. The petitioner had cross-examined P.W.4 to P.W.6.

5. The petitioner filed one more application under Section 311 of the Code of Criminal Procedure, to recall P.W.1 and P.W.2 for cross-examination and to recall P.W.3 to P.W.6 for further cross-examination. The Court below dismissed this application and aggrieved by the same, the present petition has been filed before this Court.

6. Heard Mr.N.Selvarajan, learned counsel appearing for the petitioner and Mr.C.Raghavan, learned Government Advocate appearing for the respondent.

7. In the considered view of this Court, this Court does not find any illegality or infirmity in the order passed by the Court below. The Court below has given cogent reasons for dismissing the application and there are absolutely no grounds to interfere with the same. The petitioner who was given an opportunity to cross-examine the witnesses failed to avail of that opportunity, insofar as P.W.1 and P.W.2 are concerned. Insofar as the other witnesses are concerned, they have been sufficiently cross-examined. The petitioner cannot be allowed to repeatedly file applications under Section 311 of the Code of Criminal Procedure and drag on the proceedings.

8. In the result, there are no merits in this petition and accordingly this petition will stand dismissed and the Court below is directed to complete the proceedings in SC No.186 of 2018 within a period of two months from the date of receipt of copy of this order. Consequently, the connected miscellaneous petition is closed.

Sd/-

Assistant Registrar

//True Copy//

Sub Assistant Registrar

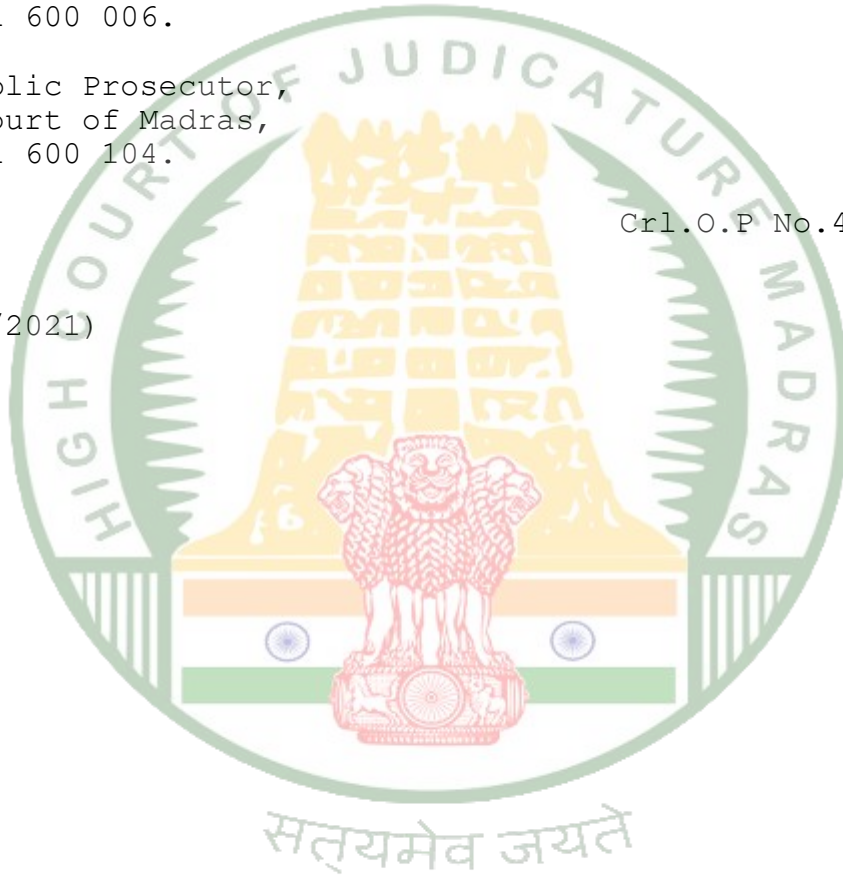
jv

To

1. The Special Court for Exclusive Trial of
Cases under POCSO Act,
Chennai
2. The Inspector of Police,
W-1 All Women Police Station,
Thousand Light,
Chennai 600 006.
3. The Public Prosecutor,
High Court of Madras,
Chennai 600 104.

Crl.O.P No.4540 of 2021

SKY (CO)
RMP (31/03/2021)



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