

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 15.02.2021

CORAM

THE HONOURABLE MR. JUSTICE N. ANAND VENKATESH

Crl.O.P No.2612 of 2021
and
Crl.MP.No.1435 of 2021

Balakrishnan

..Petitioner

vs.

The State by
The Inspector of Police,
All Women Police Station (East),
Coimbatore City.
Crime No.10 of 2018.

..Respondent

PRAYER: Criminal Original Petition filed under Section 482 of the Code of Criminal Procedure, to set aside the order dated 16.03.2020 made in CMP No.68 of 2020 in Spl.C.C.No.69 of 2019 on the file of the learned Sessions Judge, Special Court for Exclusive Trial of Cases under POCSO Act, Coimbatore.

For Petitioner : Mr.N.Manoharan

For Respondent : Mr.M.Mohamed Riyaz

Additional Public Prosecutor

ORDER

This Criminal Original petition has been filed challenging the order passed by the Court below filed by the petitioner under Section 311 of Cr.P.C., partly dismissing the application insofar as PW 1 is concerned.

2.The petitioner is facing trial before the Court below for an offence under Sections 5(i), 5(j)(ii) r/w 6 of POCSO Act and 450 IPC.

3.The petitioner filed an application to recall the witnesses PW 1 to PW 4 for cross examination. The Court below on considering the facts and circumstances of the case, partly allowed the application insofar as PW 2 to PW 4 are concerned and dismissed the application insofar as PW 1 is concerned. Aggrieved by the same, the present petition has been filed before this Court.

4.Heard Mr.N.Manoharan, learned counsel for the petitioner and Mr.M.Mohamed Riyaz, learned Additional Public Prosecutor appearing on behalf of the respondent.

5.This Court has carefully considered the submissions made on either side and also the deposition of PW 1. Taking into consideration the fact that there was a prior relationship between the petitioner and PW 1 and the petitioner is facing a very serious charge before the Court below, this Court is inclined to give one last opportunity to the petitioner to cross examine PW 1.

6.In view of the above, the order passed by the Court below dated 16.03.2020, is hereby set aside insofar as dismissing the application for recalling PW 1. The Court below shall fix a date for the appearance of PW 1. The petitioner shall pay a cost of Rs.1,000/- to PW 1 on the date of her appearance. On such payment of cost, the Court below shall permit the petitioner to cross examine PW 1 and complete the cross examination on the same day. If for any reasons, the petitioner fails to cross examine PW 1 on the date of her appearance, the petitioner shall forfeit his right to recall PW 1 thereafter. It is also made clear that the petitioner shall cross examine all the other witnesses examined on the side of the prosecution on the same day.

7.This criminal original petition is accordingly allowed and the Court below is directed to complete the proceedings in Spl.C.C.No.69 of 2019, on the file of the learned Sessions Judge, Special Court for Exclusive Trial of Cases under POCSO Act, Coimbatore, within a period of three months from the date of receipt of a copy of this order. Consequently, connected miscellaneous petition is closed.

s/d-
Assistant Registrar

True Copy

Sub-Assistant Registrar

KP

To

1.The Inspector of Police,
All Women Police Station (East),
Coimbatore City.

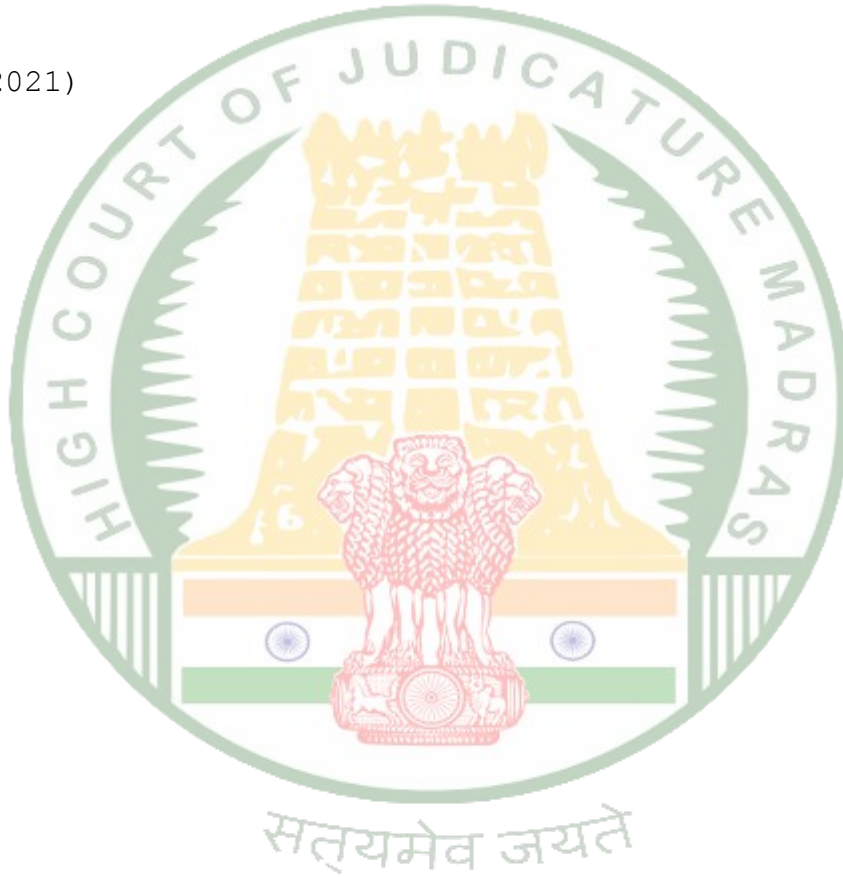
2. Sessions Judge,
Special Court for Exclusive Trial
of Cases under POCSO Act,
Coimbatore.

3. The Public Prosecutor,
Chennai.

+1 CC to Mr.N.Manoharan, Advocate sr 8702.

Crl.O.P No.2612 of 2021

RSV(CO)
SP(04/03/2021)



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