

IN THE HIGH COURT OF JUDICATURE AT MADRAS
DATED: 07.04.2021
CORAM
THE HON'BLE MR.JUSTICE M. NIRMAL KUMAR

Crl.O.P.No.6337 of 2021

Murugasamy

... Petitioner/Accused

-Vs-

State Rep. by

The Inspector of Police,
Karumathampatty Police Station,
Coimbatore.

(Crime No.207 of 2017) ... Respondent/Complainant

Prayer: Criminal Original petition filed under Section 482 of Code of Criminal Procedure, to issue a direction to the learned Sessions Judge, Special Court for Exclusive Trial of Cases Under Pocso Act, Coimbatore in SPL C.C.No.11 of 2019 to consider the recall warrant petition to be filed without insisting the surrender of the petitioner.

For Petitioner : Mr.R.Prabhakaran

For Respondent : Mr.M.Mohamed Riyaz

Additional Public Prosecutor

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O R D E R

This Criminal Original Petition has been filed to issue a direction to the learned Sessions Judge, Special Court for Exclusive Trial of Cases Under Pocso Act, Coimbatore in SPL C.C.No.11 of 2019 to consider the recall warrant petition to be filed without insisting the surrender of the petitioner.

2.The petitioner is arrayed as an accused in Spl. C.C.No.3 of 2018 and which was renumbered as Spl.C.C.No.11 of 2019 before the Sessions Judge, Special Court for Exclusive Trial of Cases Under Pocso Act, Coimbatore.

3.The petitioner was absent on 16.08.2018, during the trial in Spl.C.C.No.3 of 2018, on the file of the learned Sessions Judge, (Mahila Court) Coimbatore. Therefore non bailable warrant came to be issued on 16.08.2018. Subsequently, the case was transferred as Spl.C.C.No.11 of 2019 to the file of the Sessions Judge, Special Court for Exclusive Trial of Cases Under Pocso Act, Coimbatore.

4.The learned counsel appearing for the petitioner submitted that the petitioner is suffering from paralytic attack on his right side and seeks the help of someone for doing his day to day routine work. In view of the health condition, the petitioner has to appear before the Lower Court and on the same day the recall petition has to be considered. Further, the learned counsel appearing for the petitioner submitted that the petitioner shall file an undertaking affidavit before the lower court stating that the petitioner will not dispute his identity and the petitioner's appearance before the trial is to be dispensed with for the present and he has to appear before the trial court as and when required.

5.The Additional Public Prosecutor opposed the above petition, citing that the petitioner's presence is necessary for progress of trial and witnesses to identify the petitioner. Further if the petitioner files an affidavit not disputing his identity and to progress trial without delay. The same can be considered in view of the health condition of the petitioner.

6.Considering the submission made by the learned counsel appearing for the petitioner as well as the learned Additional Public Prosecutor, the petitioner is directed to appear before the learned Sessions Judge, Special Court for Exclusive Trial of Cases Under PocsO Act, Coimbatore, within a period of two weeks from today and to file a petition to recall the NBW issued against him. The concerned Sessions Judge is directed to consider the petition on merits on the same day and pass orders. For further hearings, the petitioner has to file an affidavit, not disputing his identity, raising any objection in recording the evidence in his absence of course represented by his counsel. The petitioner shall cross examine the witnesses then and there without any delay, shall not seek any adjournment and shall not be a reason for protracting the trial. Contrary to the undertaking affidavit for any action by the petitioner, the Trial Court is directed to take coercive action to secure the petitioner.

7.Accordingly, the Criminal Original Petition stands disposed of.

Sd/-
Assistant Registrar

/TRUE COPY/

Sub-Assistant Registrar

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To

1.The Sessions Judge,
Special Court for Exclusive Trial
of Cases Under Pocso Act,
Coimbatore.

2.The Sessions Judge (Mahila Court),
Coimbatore.

3.The Inspector of Police,
Karumathampatty Police Station,
Coimbatore,
(Crime No.207 of 2017)

4.The Public Prosecutor,
High Court, Madras.

+1cc to Mr. R.PRABHAKARAN ,Advocate, SR.NO. 22436

Cr1.O.P.No.6337 of 2021

PL (CO)
KKN 26.04.2021



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