

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 18.01.2021

CORAM

THE HONOURABLE MR.JUSTICE N.ANAND VENKATESH

CRL.O.P No.19598 of 2020

Sugadev

...Petitioner/Accused

Vs.

The Station House Officer,
State rep by
Inspector of Police,
All Women Police Station,
Panruti,
Cuddalore District

...Respondent/Complainant

PRAYER : Criminal Original Petition filed under Section 482 of Criminal Procedure Code, to set aside the order dated 20.10.2020 passed by the learned sessions Judge, POCSO Court, Cuddalore in Spl. Case No.21 of 2019 and allow the petitioner to recall the prosecution side witness 1 to 4 witness for cross examination.

For Petitioner : Mr.Krishnasamy Chinnasamy
For Respondent : Mr.Mohammed Riyaz
Additional Public Prosecutor

ORDER

This petition has been filed challenging the order passed by the Court below dismissing the application filed under Section 311 of Cr.PC by the petitioner insofar as PW1 is concerned.

2. The petitioner is undergoing trial before the Court below for charges under Section 354(b) of IPC and Section 11(1) and 12 of POCSO Act. The Court below framed the charges on 19.02.2020. PW1 to PW4 were examined in chief on 12.03.2020 and exhibit P1 to P3 were also marked. These witnesses were not cross examined on the day they were examined in chief. The evidence of these witnesses were closed.

3. The petitioner filed an application under Section 311 of Cr.PC to recall PW1 to PW4 for cross-examination. The Court below partly allowed the application and recalled PW2 to PW4 and dismissed the application insofar as PW1 is concerned. The reason that was assigned by the Court below for dismissing the application insofar as PW1 is that she is a minor girl and she cannot be repeatedly called before the Court for cross-examination. Aggrieved by the same, the present petition has been filed before this Court.

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

5. This Court has carefully gone through the final report and the evidence adduced by PW1, when she was examined in Chief. In the considered view of this Court, taking into consideration the facts and circumstances of the case and also the seriousness of the charges faced by the petitioner, this Court deems it fit to give one last opportunity to the petitioner to recall PW1 for cross-examination.

6. In view of the above, the order passed by the Court below dated 20.10.2020, dismissing the application insofar as PW1 is concerned is set aside. The Court below is directed to fix a date for the appearance of PW1. On the date of her appearance, the petitioner is directed to pay a cost of Rs.1,000/- (Rupees one thousand only). On such payment, the petitioner shall cross examine PW1 and it shall be completed on the same day. If for any reason, the petitioner fails to cross-examine PW1 on the day of her appearance, the petitioner shall forfeit his right to recall PW1 thereafter. It is also made clear that the petitioner shall cross-examine all the other witnesses examined by the prosecution, on the same day they are examined in chief.

7. In the result, this Criminal original petition is allowed and the Court below is directed to complete the proceedings in Spl.SCNo.21 of 2019, within a period of three months from the date of receipt of a copy of this order.

Sd/-

Assistant Registrar(CS III)

//True Copy//

Sub Assistant Registrar

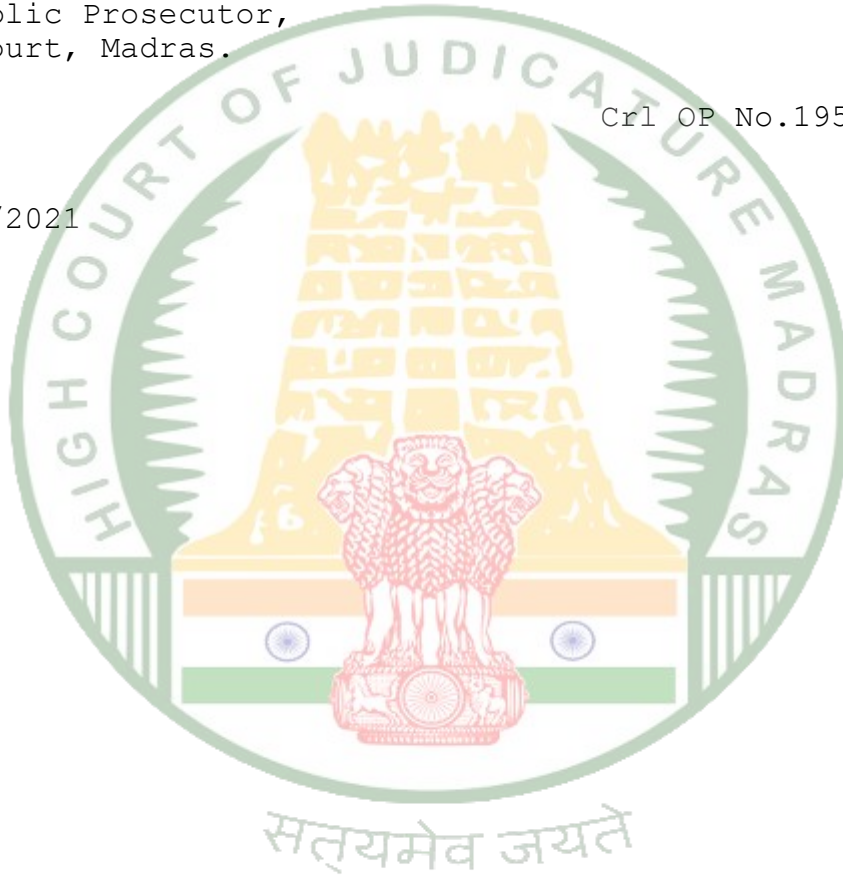
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To

1. The Learned Sessions Judge,
POCSO Court, Cuddalore.
2. The Station House Officer,
State rep by
Inspector of Police,
All Women Police Station,
Panruti,
Cuddalore District
3. The Public Prosecutor,
High Court, Madras.

Crl OP No.19598 of 2021

CO (BS)
BDL/20/01/2021



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