



WEB COPY

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 29.09.2021

CORAM:

THE HON'BLE MR.JUSTICE M.NIRMAL KUMAR

CRL.O.P.No.16962 of 2021 and
Crl.M.P.No.9270 of 2021

Ragunathan

...Petitioner/Sole Accused

Versus

The State of Tamil Nadu,
Rep. by the Inspector of Police,
All Women Police Station (East),
Coimbatore.
(Crime No.774 of 2019).

...Respondent/Complainant

PRAYER: Criminal Original Petition filed under Section 482 of the Code of Criminal Procedure, to allow the above Crl.O.P by setting aside the order dated 07.08.2021 passed in Cr.M.P.No.414 of 2021 in Spl.C.C.No.92/2019 on the file of the Special Court for Exclusive Trial of Cases under POCSO Act, Coimbatore.

For Petitioner : Mr.S.Sriram

For Respondent : Mr.A.Damodaran,
Additional Public Prosecutor

ORDER

This Criminal Original Petition has been filed to set aside the order, dated 07.08.2021, made in Cr.M.P.No.414 of 2021 in Special C.C.No.92 of 2019 passed by the learned Special Judge (FAC), Special Court for Exclusive Trial of cases under POCSO Act, Coimbatore.

2.The learned counsel for the petitioner submitted that in this case, the Investigating Officer Sivakumar examined as PW31. PW31 in his evidence stated that on 24.06.2019 and 25.06.2019, the petitioner was enquired in Peelamedu Police Station, Coimbatore and through PW17-Prema, Village Administrative Officer, Vilankurichi, the petitioner surrendered at about 10.30 a.m., and confessed about the crime. The contention of the petitioner is that the petitioner was arrested on 24.06.2019 and hence, the surrender of the petitioner before PW17/Village



Administrative Officer, Vilankurichi on 26.06.2019 would not arise and further, the statement before PW17/Village Administrative Officer, Vilankurichi and projecting as extra judicial confession cannot be true and acted upon. The petitioner to disprove the same, he needs the CCTV recordings of the E2-Peelamedu Police Station, Coimbatore on 24.06.2019, 25.06.2019 and 26.06.2019 and hence, he filed a petition under Section 91 Cr.P.C., before the trial Court to produce the CCTV footage of E2-Peelamedu Police Station, Coimbatore. The trial Court without considering these facts, dismissed the petition that the petition has been filed at belated stage, to protract the proceedings. Hence, he prayed for setting aside the order of the trial Court.

3.The learned Additional Public Prosecutor appearing on behalf of the respondent Police submitted that in Special C.C.No.92 of 2019, totally 32 witnesses were examined as PW1 to PW32 and the petitioner cross examined all the witnesses. PW17/Village Administrative Officer, Vilankurichi was examined and she was cross examined by the petitioner much earlier. Had the petitioner disputed his arrest and confession, he should have put questions to PW17/Village Administrative Officer during cross examination. Without making out a case, the petitioner filed the petition before the trial Court under Section 91 Cr.P.C., at belated stage. He further submitted that in E2-Peelamedu Police Station, Coimbatore, CCTV recordings are tuned as the copy of the recordings are automatically deleted after a month. Hence, no footage will be available now in the Police Station CCTV recorder.

4.This Court considered the rival submissions and perused the material available on record.

5.Now, the trial in Special C.C.No.92 of 2019 is at the final stage. Already, all the witnesses were examined and cross examined by the petitioner. During cross examination of the Investigating Officer/PW32 the petitioner put question on this point to the Investigating Officer/PW32, who admits that the petitioner appeared before the E2-Peelamedu Police Station, Coimbatore on 24.06.2019, 25.06.2019 and 26.06.2019. In view of this admission, the apprehension of the petitioner is unfounded and further, during the questioning under Section 313 Cr.P.C., the petitioner had given explanation for the same. The petitioner's arrest on 24.06.2019 is admitted by PW32/Investigating Officer. From the typed set, it is seen that the petitioner had brought on record his defence that he was in Police custody from 24.06.2019 onwards. Thus, the petitioner probablized his defence disputing the surrender, extra judicial confession and his arrest.



6. In view of the above, summoning of CCTV footage will serve no purpose and it is necessary. Hence, the trial Court rightly dismissed the petition in Cr.M.P.No.414 of 2021 in Special C.C.No.92 of 2019 filed by the petitioner and this Court is not inclined to interfere with the same and is, hereby, confirmed. Accordingly, this Criminal Original Petition stands dismissed. Consequently, the connected Miscellaneous Petition is closed.

Sd/-
Assistant Registrar

//True Copy//

Sub Assistant Registrar

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To

1. The Special Court for Exclusive Trial of
Cases under POCSO Act,
Coimbatore.
2. The Inspector of Police,
All Women Police Station (East),
Coimbatore.
3. The Public Prosecutor,
High Court, Madras.

+1cc to M/s.Govi Ganesan, Advocate, S.R.No.50650

CRL.O.P.No.16962 of 2021

BS[co]
NSK 07/10/2021