



IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 04.10.2021

CORAM:

THE HON'BLE MR.JUSTICE M.NIRMAL KUMAR

CRL.O.P.No.17796 of 2021

N.Natarajan

....Petitioner

Vs.

The Inspector of Police
W12, All Women Police Station
Harbour Circle
Chennai.

... Respondent

PRAYER: Criminal Original Petition filed under Section 482 of the Code of Criminal Procedure, to set aside the Crl.M.P.No.447 of 2021 order dated 06.05.2021 in the Special Court for Exclusive of Cases under POCSO Act, Chennai 104.

For Petitioner : Mr.P.Punithavanan

For Respondent : Mr.A.Damodaran

Additional Public Prosecutor

ORDER

This petition has been filed to set aside the order dated 06.05.2021 in Crl.M.P.No.447 of 2021 passed by the Special Court for Exclusive of Cases under POCSO Act, Chennai 104.

2. The petitioner, who is the accused in S.C.No.24 of 2019, has filed a petition in Crl.M.P.No.447 of 2021 under Section 311 of Cr.P.C. to recall the prosecution side witness P.W.2 to P.W.5, which was dismissed by the Lower Court on 06.05.2021, as against which, the present petition.

3. The case of the prosecution is that when the victim was returning from the school, the petitioner had committed sexual offence.

4. The contention of the petitioner is that P.W.1 is the victim, who is aged about 15 years old and he is not intended to cross examine PW1. PW2 is the mother of the victim; PW3 is the Doctor, who had examined the accused; PW4 is the Doctor, who had examined the victim; PW5 and PW6 are the Investigating Officers. In this case, the petitioner wants to recall PW2 to PW5. He further submitted that on that day of the alleged occurrence, due to heavy rain, entire place was flooded and the schools were closed.

5. The petitioner has been falsely implicated in this case. The petitioner by examining PW2, mother of the victim and PW3 and PW4, Doctors who examined the victims,



wanted to disprove the medical evidence. PW5 and PW6 are the Investigating Officer. All the witnesses can be cross examined on a single day and it will not take much time and the petitioner will not cause any further delay.

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6. The learned Additional Public Prosecutor has submitted that the petition was dismissed on 06.05.2021 and it is now almost after six months, this petition has been filed. Citing some reason, the petitioner had recently dragged on the proceedings before the Lower Court and not permitting to continue the trial. He further submitted that the prosecution witnesses have been completed and the accused has been examined under Section 313 Cr.P.C., and now the case is posted for final arguments on 08.10.2021. At this stage, the petitioner filed this petition and hence, he vehemently opposed the same.

7. Considering the same, now, the case is posted for arguments and the Lower Court has passed a detailed order with valid reason, this Court is not inclined to allow this petition.

8. Accordingly, this Criminal Original Petition is dismissed.

Sd/-

Assistant Registrar (CS-VII)

//True Copy//

Sub Assistant Registrar

dna

To

1.The Special Court for Exclusive of Cases
under POCSO Act, Chennai 104.

2.The Inspector of Police,
W12, All Women Police Station,
Harbour Circle, Chennai.

3.The Public Prosecutor
High Court, Madras.

Copy To

The Honourable POSCO Committee,
High Court, Madras 104.

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