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IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 07.10.2021

CORAM

THE HON'BLE MR.JUSTICE M.NIRMAL KUMAR

Crl.O.P.No.18304 of 2021

Selvaraj

...Petitioner

Versus

The Inspector of Police,
All Women Police Station,
Thudiyalur,
Coimbatore District.
(Crime No. 29 of 2019)

...Respondent

Prayer: This Criminal Original Petition is filed under Section 482 of Criminal Procedure Code praying to set aside the order dated 01.09.2021 passed in C.M.P.No.517 of 2021 in Spl.C.C.No. 84 of 2019, on the file of the learned Special Court for Exclusive Trial of Cases under POCSO Act, Coimbatore and to allow the Criminal Original Petition.

For Petitioner : Mr.W.Camyles Gandhi

For Respondent : Mr.A.Damodaran (Crl.Side)
Additional Public Prosecutor.

O R D E R

This petition has been filed to set aside the order dated 01.09.2021 passed in C.M.P.No.517 of 2021 in Spl.C.C.No. 84 of 2019, on the file of the learned Special Court for Exclusive Trial of Cases under POCSO Act, Coimbatore and to allow the Criminal Original Petition.

2. The petitioner, who is the accused in Spl.C.C.No.84 of 2019, filed a petition to recall and examine PW1 and PW8. PW1 is the mother of the victim and PW8 is the Investigating Officer. Though PW1 had been cross-examined, some important questions are left over with regard to the delay in lodging the complaint. The relationship between the petitioner and the defacto complainant is not denied, they are close relatives and he has been falsely implicated in this case. Hence, he needs to recall and cross-examine PW1 and PW8.



3. The learned Public Prosecutor submits that in this case PW1 was examined on 15.09.2020 and on the same day, PW1 was cross examined in detail and all there points were covered. As regards PW8, who is the Investigating Officer, he was examined on 23.08.2021, but he was not cross-examined. Now, the prosecution side evidence is closed and questioning under Section 313 completed. The case is now posted for arguments on the side the of the defence.

4. Considering the submissions and perused the materials, it is seen that there are totally eight witnesses. PW8, is the Investigating Officer and he has not been cross-examined. Evidence will be complete, only after cross-examination of all the witnesses and it is also beneficiary to the trial Court.

5. In view of the same, finding that already the victim mother has been cross examined in detail, this Court is not inclined to permit to recall PW1. As regards PW8/Investigating Officer, the petitioner is permitted to recall and cross-examine PW8. Finding that the case is at the argument stage, the petitioner shall cross-examine PW8 on the day of his appearance without asking any adjournment. The entire process of the cross examination shall be completed within a period of two weeks from the date of receipt of a copy of this order. This two weeks is only an outer limit.

6. With the above directions, this Criminal Original Petition is disposed of.

Sd/-
Assistant Registrar(CS VII)

//True Copy//

Sub Assistant Registrar

dna/drm
To

1.The Special Court for Exclusive Trial of Cases
under POCSO Act, Coimbatore.

2.The Inspector of Police,
All Women Police Station,
Thudiyalur,
Coimbatore District.



3.The Public Prosecutor
High Court, Madras.

Copy to

The Assistant Registrar,
Juvenile Justice System,
High Court, Madras.

+lcc to M/s.W.Camyles Gandhi, Advocate Sr.53008

Cr1.O.P.No.18304 of 2021

ksm[co]
srg 17/11/2021