



CRL.O.P.No.21261 of 2021

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 19.11.2021

CORAM:

THE HON'BLE MR.JUSTICE M.NIRMAL KUMAR

CRL.O.P.No.21261 of 2021
and CrI.M.P.No.11521 of 2021

V.Chandran

... Petitioner

Versus

State represented by its:
The Inspector of Police,
W-24, All Women Police Station,
Teynampet, Chennai.
(Crime No.5 of 2017)

... Respondent

PRAYER: Criminal Original Petition is filed under Section 482 of Cr.P.C., to call for the records pertaining to CrI.M.P.No.230 of 2021 in S.C.No.119 of 2018 on the file of the learned Sessions Judge, Special Court under the POCSO Act, Chennai in Crime No.5 of 2017 on the file of the respondent and to set aside the partly allowed order passed by the trial Judge in CrI.M.P.No.230 of 2021 dated 26.02.2021.

For Petitioner : Mr.C.Deivasigamani

For Respondent : Mr.R.Vinoth Raja
Government Advocate (CrI. Side)

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ORDER

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This Criminal Original Petition is filed to call for the records pertaining to Crl.M.P.No.230 of 2021 in S.C.No.119 of 2018 on the file of the Sessions Court, Special Court under the POCSO Act, Chennai in Crime No.5 of 2017 on the file of the respondent and to set aside the partly allowed order passed by the trial Judge in Crl.M.P.No.230 of 2021 dated 26.02.2021.

2.The petitioner is an accused in S.C.No.119 of 2018 had filed a recall petition, to recall PW1 to PW5 in Crl.M.P.No.230 of 2021 before the Sessions Court, Special Court for exclusive trial of Cases under POCSO Act, Chennai. The lower Court by order dated 26.02.2021, had partly allowed the petition, permitting the petitioner to recall PW2 to PW5, with regard to PW1, the said petition is dismissed by citing the Section 33(5) of the POCSO Act, which restricts recalling of victim child repeatedly for examination and the victim cannot be called and harassed.

3.The learned Government Advocate [Crl. Side] submits that the



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chief examination was completed on 27.08.2018. For the past three years, the petitioner had failed to cross examine the witnesses and a plausible reason is to be given by the petitioner. The victim girl is now presently residing with her mother. Earlier she was residing with her father and grand mother. The petitioner being the brother of the father of the victim, taking advantage of the same, he had abused the victim both physically and mentally. The defacto complainant i.e. the victim herself had lodged a complaint before the respondent police. He further submits that the lower Court had rightly dismissed the Crl.M.P.No.230 of 2021 as regards PW1.

4.Considering the submissions and on perusal of materials, this Court finds that the lower Court had rightly dismissed the Crl.M.P.No.230 of 2021 as regard PW1 and given a plausible reason for dismissing the said petition, so that the victim cannot be called and harassed. In view of the same, this Criminal Original Petition is to be dismissed.



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5. Accordingly, this Criminal Original Petition stands dismissed.

Consequently, the connected miscellaneous petition is closed.

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Index: Yes/No

Internet: Yes/No

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To

1. The Sessions Judge,
Special Court under POCSO Act,
Chennai.
2. The Inspector of Police,
W-24, All Women Police Station,
Teynampet, Chennai.
3. The Public Prosecutor,
High Court, Madras.

M.NIRMAL KUMAR, J.



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