



WEB COPY

BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

Dated: 09.08.2021

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THE HONOURABLE MRS. JUSTICE T.KRISHNAVALLI

Crl.RC(MD)No.418 of 2021

and

Crl.MP(MD)No.4393 of 2021

Rajeshkumar

: Petitioner/Petitioner/
Sole Accused

Vs.

The State rep. through
The Inspector of Police,
All Women Police Station,
Rajapalayam,
Virudhunagar District.
(Crime No.14/2018)

: Respondent/Respondent/
Complainant

Prayer: Criminal Revision filed under section 397 r/w 401 of the Code of the Criminal Procedure, against the order, dated 07.04.2021 made in Crl.MP No.319 of 2021 in Special SC No.35 of 2019 on the file of the POCSO Judge (Special Court for POCSO Act cases), Srivilliputhur.

For Petitioner : Mr.V.Selvakumar

For Respondent : Mr.RMS.Sethuraman

Standing counsel for State
(Criminal side)

O R D E R

This Criminal Revision is directed against the order, dated 07.04.2021 made in Crl.MP No.319 of 2021 in Special SC No.35 of 2019 on the file of the POCSO Judge (Special Court for POCSO Act Cases), Srivilliputhur.

2.It reveals from the records that the petitioner is the sole accused in Special S.C No.35 of 2019 on the file of the POSCO Court, Srivilliputhur, for the alleged offence under sections 294 (b), 506(i) IPC r/w section 5(1) and 6 of POCSO Act, 2012. The petitioner filed a petition in Crl.MP No.319 of 2021 under section 33(2) of POCSO Act, to put some questions to the victim. On 07.04.2021, the trial court dismissed the said petition and also imposed a fine of Rs.10,000/-. Aggrieved over the same, the petitioner is before this court.

<https://hcservices.ecourts.gov.in/hcservices/>

3.Heard the learned counsel appearing on either side and



perused the materials available on record.

4. The learned counsel appearing for the petitioner/accused submitted that the petitioner filed the petition to put some questions relevant to this case and if the questions were not asked to the witness, it will cause prejudice to the petitioner/accused and the above questions will be useful for the petitioner/accused to prove his case and the questions stated in the petition are not scandalous and in the 164 statement of the victim, she disclosed that she had taken abortion pill, when mensuration stops and the question set enclosed in this petition is not disclosed to any witness except between the court and the petitioner and therefore, this question did not hurt anybody and cross examining the witness is the right of the accused and it shall not be forbidden to cross examine the witness, then it will not be a fair trial and the fine imposed by the trial court is unfair and prays that the Criminal Revision may be allowed.

5. On the other hand, the learned Standing counsel appearing for the respondent/State argued that the trial court after proper appreciation of materials available on record, has correctly passed the impugned order and prays for dismissal of this criminal revision.

6. This court has carefully perused the records and the questions to be put to the victim has also carefully perused. On perusal of the above questions, it will definitely affect the modesty of the victim. Further, it will affect the future life of the victim also. It is general rule that the accused has every right to cross examine the witness to prove his case. But only relevant questions have to be put. When the accused had any grievance against the victim, the remedy open to him is to take action against them as per law. It is the duty of the accused to take steps to contradict the evidence as put forth by the prosecution.

7. At this juncture, it is necessary to refer section 33(2) of POCSO Act, which would run thus:-

"The Special Public Prosecutor, or as the case may be, the counsel appearing for the accused shall, while recording the examination-in-chief, cross-examination or re-examination of the child, communicate the questions to be put to the child to the Special Court which shall in turn put those questions to the child."

Hence, necessary steps under section 33 of the POCSO Act is to be correctly followed as against the victim.

8. In this case, most of the questions stated in the petition are not relevant and it will affect the modesty and future of the victim. Hence, the trial court has rightly dismissed



the petition filed by the petitioner and also imposed the fine. Therefore, it is held that it is not necessary to interfere into the findings of the trial court.

9. In fine, this Criminal Revision fails and the same is dismissed. Consequently, connected Miscellaneous Petition is closed.

Sd/-

Assistant Registrar (CS I)

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/ /2021

Sub Assistant Registrar (CS)

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Note : In view of the present lock down owing to COVID-19 pandemic, a web copy of the order may be utilized for official purposes, but, ensuring that the copy of the order that is presented is the correct copy, shall be the responsibility of the advocate/litigant concerned.

To,

1. The POCSO Judge (Special Court for POCSO Act Cases),
Srivillipthur.

2. The Inspector of Police,
All Women Police Station,
Rajapalayam,
Virudhunagar District.

3. The Additional Public Prosecutor,
Madurai Bench of Madras High Court,
Madurai.

Copy to

The Section Officer,
Criminal Section,
Madurai Bench of Madras High Court,
Madurai.

+2 CC to M/s.V.SELVAKUMAR, Advocate (SR-25856[F] dated 11/08/2021)

Cr1.RC(MD)No.418 of 2021
09.08.2021