



WEB COPY

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 07.06.2022

CORAM

THE HONOURABLE MR. JUSTICE N. SATHISH KUMAR

Crl.O.P.No.11694 of 2022
and Crl.M.P.No.6639 of 2022

Raja

... Petitioner

-Vs-

The State rep.by
The Assistant Commissioner of Police,
Saidapet Range,
Chennai.

... Respondent

Prayer: Criminal Original petition filed under Sections 407 & 482 of the Code of Criminal Procedure, to withdraw the case in Spl.S.C.No.111 of 2020 pending on the file of the learned Special Judge for Exclusive Trial for POCSO Act cases at Chennai and transfer the same to any other competent Court with direction to conduct re-trial.

For Petitioner : Mr.S.Prabu Doss

For Respondent : Mr.A.Gokulakrishnan
Additional Public Prosecutor

ORDER

This Criminal Original Petition has been filed to withdraw the case in Spl.S.C.No.111 of 2020 pending on the file of the learned Special Judge for Exclusive Trial for POCSO Act cases at Chennai and transfer the same to any other competent Court with direction to conduct re-trial.

2. It is averred in the petition that the petitioner has been arrayed as sole accused in Spl. SC.No.111 of 2020 on the file of the Special Judge for Exclusive Trial of POCSO Act Cases at Chennai for the commission of alleged offences punishable under Section 6(1) of POCSO Act and Sec.3 (1) (v) of SC/ST Prevention of Atrocities Act. Further, it is stated in the petition that the Presiding Officer has comforted the witness and the same is objected by the petitioner and therefore, the present petition has been filed.



3. The learned counsel appearing for the petitioner has reiterated the averments made in the petition.

4. The learned Additional Public Prosecutor has contended that the reason given in the petition is not at all a fit case to grant the relief sought for therein and therefore, the present petition deserves to be dismissed.

5. Heard both sides.

6. The main allegation attributed against the Presiding Officer by the petitioner is that Presiding Officer has comforted the witness who are considered to be vulnerable in a case relating to Sexual assault. The learned Special Judge for Exclusive Trial of cases under POCSO Act has comforted the witness and gave certain instructions to give evidence properly, that was objected by the petitioner. Thereafter allegations were levelled against the very learned Special Judge. This Court is of the view that the very object of the POCSO Act in examining the witness is to prevent the eye to eye contact of the witness from accused and other witnesses. Even the Apex Court has directed a separate particular Sector namely vulnerable witness centre to be set up in every Court complex particularly to deal with the victim who are exploited and assaulted sexually. When that being the position, the learned Special Judge merely comforting the witness and informed that the Courts are there to protect their rights and the same cannot be construed to mean that every judicial officer is acting in a biased manner. Therefore, this Court is of the view that the very imputation and allegation made against the learned Sessions Judge is highly deprecated. If every accused of this type seeks transfer of case and the same is allowed by the Court it will open flood gate for the accused to drag on the proceedings to at a maximum limit. The very object of the Act to protect the witness particularly who are vulnerable in nature will be defeated. Hence I do not find any materials to transfer the case. The allegation imputed are only frivolous in nature.

7. Accordingly the Criminal Original Petition is dismissed. Consequently connected miscellaneous petition is also closed.

Sd/-

Assistant Registrar(CS-VIII)

//True Copy//

Sub Assistant Registrar

dpq



To

1. The Assistant Commissioner of Police,
Saidapet Range,
Chennai.

2. The Special Judge for Exclusive Trial
for POCSO Act cases, Chennai.

3. The Public Prosecutor,
High Court, Madras.

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BR(CO)
GN(01/07/2022)