



WEB COPY

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 01.06.2022

CORAM:

THE HON'BLE MR.JUSTICE C.V.KARTHIKEYAN

Crl.O.P.No.12942 of 2022

and

Crl.M.P.No.6987 of 2022

Gananathan

...Petitioner / Accused

Versus

The State rep by its
The Inspector of Police,
AWPS-Thirukoilur Police Station,
Villupuram District.
In Crime No.19 of 2019.

...Respondent / Complainant

PRAYER : Criminal Original Petition filed under Section 482 of the Code of Criminal Procedure, to set aside the order dated 27.09.2021 made in Crl.M.P.No.47 of 2021 in Spl.S.C.No.124 of 2019 on the file of the learned Sessions Judge, Special Court for exclusive trial of POCSO Act cases, at Villupuram District by recall the witnesses PW1 and PW2.

For Petitioner : Mr.M.P.John Peter

For Respondent : Mr.R.Vinothraja
Government Advocate (Crl.Side)

O R D E R

This petition has been filed by the petitioner seeking to set aside the order dated 27.09.2021 made in Crl.M.P.No.47 of 2021 in Spl.S.C.No.124 of 2019 on the file of the learned Sessions Judge, Special Court for exclusive trial of POCSO Act Cases, at Villupuram District to recall the witnesses PW1 and PW2.

2. The said Crl.M.P.No.47 of 2021 was filed by the petitioner under Section 311 of Cr.P.C seeking to recall the witnesses PW1 and PW2 for further cross examination. The petitioner herein is facing trial for the offences under Sections 11(3), 12 and 18 of Protection of Child from Sexual Offences Act, 2012. It is stated that the trial had proceeded considerably and it is now posted for cross examination of the Investigating Officer. PW1 and PW2 were examined on 20.10.2020 and the Trial Court had taken umbrage over the application to recall the witnesses, which was filed on 07.01.2021.



3. Let me not enter into the merits of the application but, let me proceed on the general aspect of opportunity being granted for cross examining the witnesses PW1 and PW2. Naturally, if the petitioner herein is of the opinion that further questions have to be put to PW1 and PW2 in cross examination, the Trial Court can always reschedule the trial process and thereafter, analyze the evidence and if the Trial Court finds that irrelevant questions had been put during the course of further cross examination, the Trial Court can always reject the evidence recorded. I am informed that the matter is posted for cross examination of the Investigating Officer. Therefore, the cross examination of the Investigating Officer may be held over and PW1 and PW2 may be recalled and on the same day be cross examined and thereafter, the investigating officer can be cross examined by the petitioner herein.

4. The order in CrI.M.P.No.47 of 2021 in Spl.S.C.No.124 of 2019 on the file of the learned Sessions Judge, Special Court for exclusive trial of POCSO Act Cases, at Villupuram District dated 27.09.2021 is set aside with the above directions.

5. Accordingly, this Criminal Original Petition is allowed. Consequently, connected Criminal Miscellaneous Petition is closed.

Sd/-
Vacation Officer

// True Copy //

Sub Assistant Registrar

shk/rna

To

1.The Sessions Judge,
Special Court for exclusive trial of POCSO act cases,
Villupuram District

2.The Inspector of Police,
AWPS-Thirukoilur Police Station,
Villupuram District.

3.The Public Prosecutor,
High Court, Madras.

+lcc to Mr.S.Saravana Kumar, Advocate Sr.No.31954

CrI.O.P.No.12942 of 2022 and
CrI.M.P.No.6987 of 2022

SSI (CO)
RVM(03/06/2022)