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Crl.O.P.No.15057 of 2022

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 01.07.2022

CORAM:

THE HONOURABLE MR. JUSTICE N.SATHISH KUMAR

Crl.O.P.No.15057 of 2022

A.Kalaiselvan

... Petitioner

Vs.

State Rep. By
The Inspector of Police,
W-8, All Women Police Station,
Thirumangalam,
Chennai 600 101.

... Respondent

PRAYER: This Criminal Original Petition filed under Section 482 of Cr.P.C., to set aside the order made in Crl.M.P.No.773 of 2022 dated 13.06.2022 made in S.C.No.36 of 2018, W-8 AWPS pending Trial on the file of the Special Court of Exclusive Trial of Cases under POCSO Act, Chennai 600 104.

For Petitioner : Mr.N.Jothi for P.Rathanavel

For Respondent : Mr.A.Gokulakrishnan,
Additional Public Prosecutor.



CrI.O.P.No.15057 of 2022

ORDER

This Criminal Original Petition has been filed to set aside the dismissal order of the Special Court of Exclusive Trial of Cases under POCSO Act, Chennai, filed under Section 311 of Cr.P.C., to cross examine PW1, who is none other than the petitioner's wife .

2. Learned counsel for the petitioner would submit that PW1 was cross examined earlier for sometimes and now new facts have come to the knowledge of the petitioner. He would further submit that the divorce proceedings also ended in his favour and those documents to be produced before the Court through P.W.1. Evidence by the PW1 in earlier proceedings are relevant. Hence, he submitted that since the accused is facing severe charges under POCSO Act, those documents are required and further cross examination is necessary.

3. Mr.A.Gokulakrishnan, learned Additional Public Prosecutor would submit that PW1 was already cross examined several times. Therefore, the trial court had dismissed the application filed by the petitioner. Hence, he opposes the prayer sought by the petitioner.



CrI.O.P.No.15057 of 2022

4. Heard the learned counsel for the petitioner and the learned Additional Public Prosecutor for the respondent.

5. Considering the facts and circumstances of this case, this Court is of the view that though cross examination cannot be prolonged or protracted for whims and fancies of the parties. Cross examination should be done on the date fixed by the trial Court, in the event of same could not be completed on the same date, it can be done in some other date as fixed by the Court. Though the trial Court order shows that PW1 was already cross examined on several times. However, considering the nature of the charges faced by the petitioner under POCSO Act, which was initiated by the wife against her own husband, the proved facts in the previous proceedings between the husband and wife are relevant for proper adjudication of the entire charge.

6. Such view of the matter, this court is inclined to set aside the order. The Trial Court shall fix specific date after 18.07.2022 for cross examination of PW1 and allow the petitioner to cross examine the witness PW1 on the basis of the certificate copies of the earlier judgments.

N.SATHISH KUMAR,J.
shk/nti



Crl.O.P.No.15057 of 2022

7. With the above direction, this Criminal Original Petition stands allowed.

01.07.2022

Index: Yes/No

Internet: Yes/No

Speaking order/Non speaking order

shk/nti

To

1. The Special Court of Exclusive Trial of Cases
under POCSO Act,
Chennai 600 104.
2. The Inspector of Police,
W-8, All Women Police Station,
Thirumangalam,
Chennai 600 101.
3. The Public Prosecutor,
High Court of Madras.

Crl.O.P.No.15057 of 2022