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Crl.O.P.No.20562 of 2022

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 05.09.2022

CORAM:

THE HONOURABLE MR. JUSTICE **G.K.ILANTHIRAIYAN**

Crl.O.P.No.20562 of 2022

and

Crl.M.P.No.13470 of 2022

1. Sasikumar

2. Valli

....

Petitioners

Vs

State by Inspector of Police,

All Women Police Station,

Tiruvannamalai

(Crime No.17 of 2017)

....

Respondent

Prayer: Criminal Original Petition filed under Section 482 Cr.P.C. to call for the records of the order dated 23.06.2022 passed in Crl.M.P.No.350 of 2022 in Spl.S.C.No.158 of 2019 on the file of the Special Court under POCSO Act, Tiruvannamalai District and set aside the same.

For Petitioners : Mr.A. Prabhakaran

For Respondent : Mr.S.Santhosh

Government Advocate (Crl. Side)

ORDER

This Criminal Original Petition has been filed to set aside the order dated 23.06.2022 in Crl.M.P.No.350 of 2022 in Spl.S.C.No.158 of 2019 on



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the file of the Special Court under POCSO Act, Tiruvannamalai District, thereby dismissing the petition filed under Section 311 of Cr.P.C to recall P.Ws 1 to 3.

2. Heard, Mr.A.Prabhakaran, learned counsel appearing for the petitioners and Mr.S.Santhosh, learned Government Advocate (Criminal Side) appearing for the respondent.

3. It is seen that the petitioners are accused in Spl.S.C.No.158 of 2019 and facing charges for the offence punishable under Sections 4, 6, 5(j)(ii), 5(I) of POCSO Act, 2012 and under Sections 9 and 10 of Prohibition of Child Marriage Act 2006 and 376(1) and 376(2)(n) of IPC. P.Ws. 1 to 3 are the official witnesses, who were examined as early as on 02.03.2020. However, the learned representing counsel for the petitioner failed to cross-examine P.Ws.1 to 3. Thereafter, the other prosecution witnesses viz., P.Ws. 4 to 6 including the victim were examined. The Court below dismissed the petition for the reason that the petitioners failed to cross-examine P.Ws. 1 to 3 for the past two years, without any reason they filed a petition to recall P.Ws. 1 to 3. Admittedly, the petitioners did not



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cross-examine P.Ws. 1 to 3 to put forth their defence.

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4. Considering the above facts and circumstances of the case, this Court is of the opinion that the petitioners may be given an one more opportunity to cross-examine P.Ws. 1 to 3.

5. In view of the above, the order dated 23.06.2022 made in Crl.M.P.No.350 of 2022 in Spl.S.C.No.158 of 2019 on the file of the Special Court under POCSO Act, Tiruvannamalai District, is hereby set aside. Accordingly, this Criminal Original Petition is allowed on payment of necessary charges. It is made clear that if the petitioners failed to cross-examine P.Ws.1 to 3 on the date to be fixed by the Trial Court, the Trial Court is directed to proceed with the trial in accordance with law. Consequently, connected miscellaneous petition is closed.

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Index:Yes/No
Speaking/Non speaking order
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G.K.ILANTHIRAIYAN. J.

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To

1. The Special Court under POCSO Act,
Tiruvannamalai District

2. Inspector of Police,
All Women Police Station,
Tiruvannamalai.

3. The Public Prosecutor,
High Court, Madras.

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and

Crl.M.P.No.13470 of 2022

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