



WEB COPY



Crl.O.P.No. 22626 of 2022

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 20.09.2022

CORAM:

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

Crl.O.P.No.22626 of 2022

1.Ilyas
2.Surya
3.Barkath

...

Petitioners

Vs

The State, represented by
The Inspector of Police,
All Women Police Station,
Vandhavasi,
Thiruvannamalai District

...

Respondent

Prayer: Criminal Original petition filed under Section 482 of Code of Criminal Procedure, to set aside the order dated 30.08.2022 in Crl.M.P.No.1048 of 2022 made in S.C.No.102 of 2020 by Special Court for Trial of the cases under POCSO Act at Thiruvannamalai, Thiruvannamalai District in respect to the recall of PW.1 to PW.3 and also direct the trial Court to recall the witnesses namely PW.1 to PW.3 for cross examination.

For Petitioners : Mr.V.R.Apppaswamee

For Respondent : Mr.S.Santhosh
Government Advocate (Crl.Side)



CrI.O.P.No. 22626 of 2022

ORDER

This Criminal Original Petition has been filed to set aside the order dated 30.08.2022 in CrI.M.P.No.1048 of 2022 made in S.C.No.102 of 2020 by the Special Court for Trial of the cases under POCSO Act at Thiruvannamalai, Thiruvannamalai District, thereby dismissed the petition filed under Section 311 of Cr.P.C to recall P.Ws. 1 to 3.

2. Heard, Mr.V.R.Apppaswamee, 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.102 of 2020 and they are facing charges for the offences punishable under Sections 366(A), 363, 366 & 376 of IPC and Sections 6 and 5(g) of POCSO Act. Sofar as the prosecution has examined P.Ws.1 to 3, in which the petitioners 1 and 2 were examined on 27.08.2021. On the same day on behalf of the 1st accused, they were cross-examined. Thereafter, the other accused persons filed a petition under Section 311 of Cr.P.C., in CMP Nos.1100 of 2021 and 1099 of 2021 and both the petitions were allowed. Thereafter, P.Ws.1 and 2 were again called for



Crl.O.P.No. 22626 of 2022

cross-examination and completed the same. Now, all the petitioners filed a petition to recall P.Ws. 1 to 3 for further cross-examination, which is contemplated under Section 33(5) of the POCSO Act. The victim girl cannot be repeatedly called for evidence before the Trial Court. That apart, the petitioners examined P.Ws.1 to 3 and change of counsel is not a ground for recalling the prosecution witnesses.

4. In view of the above, this Court finds no infirmity or illegality in the order passed by the Court below. Accordingly, this Criminal Original Petition is dismissed. However, the Trial Court is directed to complete the trial within a period of three months from the date of receipt of a copy of this order.

20.09.2022

Internet: Yes

Index : Yes/No

Lpp



WEB COPY



CrI.O.P.No. 22626 of 2022

G.K.ILANTHIRAIYAN. J.

Lpp

To

1.The Inspector of Police,
All Women Police Station,
Vandhavasi,
Thiruvannamalai District

2. The Public Prosecutor
High Court of Madras.

CrI.O.P.No.22626 of 2022

20.09.2022