



BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

DATED: 07.04.2022

CORAM:

THE HON'BLE MR.JUSTICE G.K.ILANTHIRAIYAN

Crl.O.P. (MD)No.6439 of 2022

Manoharan

... Petitioner

Vs.

The Inspector of Police,
All Women Police Station-Colachel,
Kanyakumari District.
(Crime No.9 of 2019)

... Respondent

Prayer: Criminal Original Petition filed under Section 482 Cr.P.C. to Call for the records relating to the impugned order dated made in 06.01.2022 made in Cr.M.P.No.678 of 2021 in Spl.S.C.No.96/2019 on the file of the Honourable Special Court for Exclusive trial of cases under POCSO Act, Kanyakumari at Nagercoil and set aside the same.

For Petitioner : Mr.G.Aravinthan

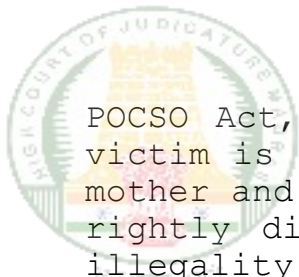
For Respondents : Mr.R.M.Anbunithi
Additional Public Prosecutor
(Criminal side) for R1

ORDER

This Criminal Original Petition has been filed to set aside the impugned order dated 06.01.2022 in Cr.M.P.No.678 of 2021 in Spl.S.C.No.96/2019 on the file of the Special Court for Exclusive trial of cases under POCSO Act, Kanyakumari District at Nagercoil, thereby, dismissing the petition filed under Section 311 of Cr.P.C.

2.The petitioner is the sole accused, who has been charged for the offences under Sections 3 and 4 of POCSO Act. PW1 and PW2 were examined on the side of prosecution, as early as, on 11.02.2021 and 12.02.2021 and both chief and cross examination were completed. Thereafter, other prosecution witnesses PW3 to PW14 were examined. After examination of all the prosecution witnesses, now the petitioner has filed a petition to recall PW1 and PW2, on the ground that at the time of cross examination, his junior counsel has only cross-examined and as such, he wanted to cross examine further.

3.The change of counsel is not the ground for recalling the witness for further examination. Admittedly, the petitioner through his counsel, already fully cross examined PW1 and PW2. Therefore, the present petition has been filed only to fill up the lacuna and it is not permissible under law. Further as per Section 33(5) of



POCSO Act, it is very clear that the Court should ensure that the victim is not called repeatedly to testify in the Court. PW1 is the mother and PW2 is the victim herein. Therefore, the Court below had rightly dismissed the petition. This Court finds no infirmity or illegality in the order passed by the Court below.

4. Accordingly, this Criminal Original Petition is dismissed.

Sd/-

Assistant Registrar (CS-III)

// True Copy //

/ /2022

Sub Assistant Registrar(CS)

PNM

Note:

In view of the present lock down owing to COVID-19 pandemic, a web copy of the order may be utilized for official purposes, but, ensuring that the copy of the order that is presented is the correct copy, shall be the responsibility of the advocate/litigant concerned.

To:

1. The Special Court for exclusive trial of Cases under
POSCO Act,
Kanyakumari at Nagercoil.
2. The Inspector of Police,
All Women Police Station-Colachel,
Kanyakumari District.
3. The Additional Public Prosecutor,
Madurai Bench of Madras High Court,
Madurai.

Crl.O.P. (MD)No.6439 of 2022

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RK(20/04/2022) 2P 4C