



BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT
Criminal Appellate Jurisdiction

Wednesday, the Nineteenth day of October Two Thousand Twenty Two

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PRESENT

The Hon`ble Mr.Justice SATHI KUMAR SUKUMARA KURUP
CRL.OP(MD) No.9958 of 2022

Krishnan ... Petitioner/ Accused No.1

Vs

1. State represented by
The Inspector of Police,
All Women Police Station,
Marthandam,
Kanyakumari District.
(Crime No.4 of 2021) ... 1st Respondent/ Complainant

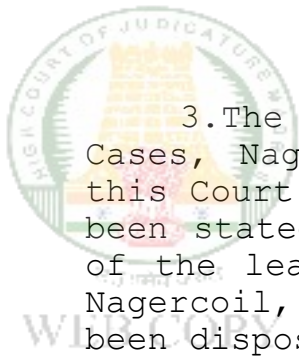
2. Rani ... 2nd Respondent/Defacto Complainant

PRAYER: Criminal Original Petition filed under Section 482 Cr.P.C. praying this Court to call for the records in connection with S.C.No.63 of 2021 on the file of the Special Judge for POCSO Act cases Nagercoil, Kanyakumari District and quash the same/Accused 1.

ORDER:- This Criminal Original Petition is coming on for orders on this day under the caption "Extension of time for Lower Court" and upon perusing earlier order of this Court dated 08.06.2022 and the requisition letter submitted by the Sessions Judge, Special Court for POCSO Act Cases, Kanniyakumari @ Nagercoil in D.No.1290/2022 dated 09.09.2022, seeking three months time to dispose of the case in Spl.Sc.NO.63/2021 on the file of the Special Court for POCSO Act Cases, Kanniyakumari @ Nagercoil, this Court made the following order:-

Cr1.O.P.(MD) No.9958 of 2022 had been filed seeking to quash the case in S.C.No.63 of 2021 on the file of the learned Special Judge for POCSO Act Cases, Nagercoil, Kanyakumari District.

2.This Court after hearing the learned counsel on either side had dismissed the said petition, vide order dated 08.06.2022 with a direction to the learned Special Judge for POCSO Act Cases, Nagercoil, Kanyakumari District to dispose of the case in S.C.No.63 of 2021 within a period of three months from the date of receipt of a copy of the order.



3.The learned Sessions Judge, Special Court for POCSO Act Cases, Nagercoil, Kanyakumari District, had addressed a letter to this Court in D.No.1290/2022 dated 09.09.2022. In the letter, it has been stated that the order of this Court was received by the Court of the learned Sessions Judge, Special Court for POCSO Act Cases, Nagercoil, on 27.06.2022. From 27.06.2022, the case ought to have been disposed of on or before 26.09.2022.

4.The present Presiding Judge had taken charge only on 01.09.2022 and as per the final report filed by the Investigation Officer, L.W1 and L.W2 were examined on 01.09.2022 and 05.09.2022. Further, there are 19 witnesses to be examined. The case was adjourned to 13.09.2022 for examination of other witnesses. Therefore, she seeks further time of three months.

5.The learned Additional Public Prosecutor for the first Respondent would submit that already 7 witnesses had been examined and the case was adjourned to 14.11.2022. As per the trial of cases, the Special Judge is the Sessions Judge. Therefore, the proceedings in a sessions trial cases as per Cr.P.C. had to be adopted. The letter of the learned Sessions Judge states that only one witness can be examined on a single day.

6.In the sessions cases, independent witnesses and the Official witnesses can be examined in a day or two. Within a week, the learned Sessions Judge decides the list of witnesses to be examined on a particular day, day 1, 2, 3 or 4. By the fourth or fifth day, the entire prosecution witnesses can be closed and the accused can also be examined under Section 313 Cr.P.C. Thereafter, it has to be posted for defence side witness. If there is no defence witnesses, the argument had to be heard.

7. The learned Sessions Judge, Special Court for POCSO Act Cases, Nagercoil, is directed to follow the procedures for sessions trial and not to examine the witnesses as piecemeal, which is followed in Civil Courts. The learned Sessions Judge has to be the Presiding Judge holding the Court and not otherwise. The learned Sessions Judge is also directed to examine all the witnesses within a week and dispose of the case in S.C.No.63 of 2021 within a month instead of three months.

8. The prosecution is directed to produce the witnesses promptly as per the directions of the learned Sessions Judge. If the prosecution or the Station House Officer of the All Women Police Station, Nagercoil fails to produce the witnesses promptly and the trial could not be completed within the specified time by the learned Sessions Judge, Special Court for POCSO Act Cases, Nagercoil, then the learned Sessions Judge shall pass a separate order giving out the details of the conduct of the prosecution in a separate paragraph in the concluding portion of the judgment, so that the appellate Court can appreciate the facts and evidence



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while hearing the arguments in the appeal. The learned Judge is also directed to dispose of the case in S.C.No.63 of 2021 within a month from the date of receipt of a copy of this order.

Sd/-

Assistant Registrar (CS-II)

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/11/2022

Sub Assistant Registrar(CS)

TO

1.The Sessions Judge,
Special Court for POCSO Act cases
Kanniyakumari @Nagercoil,
Kanyakumari District.

2.The Inspector of Police,
All Women Police Station,
Marthandam,
Kanyakumari District.

3. The Additional Public Prosecutor,
Madurai Bench of Madras High Court,
Madurai.

Copy to:

The Registrar (Judicial),
Madurai Bench of Madras High Court, Madurai.

ORDER DATED : 19/10/2022

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ORDER

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CRL.OP(MD) No.9958 of 2022

Giving direction and etc.
as stated within.

RD(01/11/2022) 3P 5C