



Crl.O.P.(MD) No.14393 of 2022

BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

DATED: 11.08..2022

CORAM:

THE HONOURABLE MR. JUSTICE **V.SIVAGNANAM**

Crl.O.P.(MD) No.14393 of 2022

John Joseph

...Petitioner

vs

The Inspector of Police
All Women Police Station
Lalgudi, Trichy District

..Respondent

PRAYER: Criminal Original Petition filed under Section 482 Cr.P.C. praying this Court to call for the records and set aside the order dt.13.12.2021 passed in Cr.MP.No.993 of 2021 in Spl.Sc.No.33 of 2020 on the file of the learned Sessions Judge, Mahila Court, Tiruchirappalli District and recall the witness PW-1 for cross examination

For Petitioner : Mr.A.Robinson
For Respondent : Mr.R.Suresh Kumar
Government Advocate (Crl.Side)



Cr.L.O.P.(MD) No 14393 of 2022

ORDER

WEB COPY This Criminal Original Petition has been filed to set aside the order dated 13.12.2021 passed in Cr.MP.No.993 of 2021 in Spl.Sc.No.33 of 2020 on the file of the learned Sessions Judge, Mahila Court, Tiruchirappalli District and recall the witness PW-1 for cross examination

2. The learned counsel for the petitioner would submit that the petitioner is an accused in Spl.S.C.No.33 of 2020 on the file of the learned Sessions Judge, Mahila Court, Tiruchirappalli District. The petitioner/accused is prosecuted for having committed the offences punishable under Sections 450, 506(2) of IPC and Sections 5(l), 5(n) and 6 of POCSO Act. The prosecution has so far examined eight witnesses. P.W.1 was examined on 16.09.2021 with regard to the treatment taken by her in two different hospitals and the contradictions has to be elucidated, therefore the victim has to be cross examined, hence he filed a petition under Section 311 of Cr.P.C in Cr.M.P.N.993 of 2021 and it was dismissed by the trial Court by relying upon the provisions under Section 33(5) of the POCSO Act and also on the relying on the decision of the Hon'ble Supreme Court reported in 2015(1)MLJ (CrL)288. Now the victim girl is aged about 18 years and the conditions



Crl.O.P.(MD) No14393of 2022

imposed under Section 33(5) of the POCSO Act is applicable to the case on hand. Now the victim girl being more than 19 years and in order to elucidate the contradictions with regard to the treatment taken by her in two different hospital, he seeks to set aside the order.

3. The learned Government Advocate(Crl.Side) would submit that all the witnesses have been examined in this case and the case stands posted to 16.08.2022 for the examination of the Investigating Officer.

4. I have considered the submission of the learned counsel appearing for the petitioner and the learned Government Advocate (criminal side) appearing for the respondents police.

5. Perusal of the record reveals the fact that the petitioner/accused is prosecuted for having committed the offences punishable under Sections 450,506(2) of IPC and Sections 5(l),5(n) and 6 of POCSO Act. After framing charges trial was ordered and as on date PW.1 to PW.8 were examined. P.W.1 who is the victim was examined on 16.09.2021 and on that date itself the accused had examined PW.1/victim. Now after examination of eight witnesses



Cr.L.O.P.(MD) No 14393 of 2022

filed a petition under Section 311 of Cr.P.C on 18.10.2021. Further in the petition filed under Section 311 of Cr.P.C he has not stated any valid reason for recalling P.W.1/Victim for further examination. At the time of incident the victim girl was aged about 17 years and now according to the petitioner she is aged about 20 years. Even though the condition stipulated under Section 33(5) of the POCSO Act may strictly attract, there should be sufficient reason for recalling P.W.1 for further cross examination. In this case it is absent. Hence without any strong and valid reason the witnesses cannot be once again recalled for further cross examination.

6. I do not find any illegality or infirmity in the order passed by the learned Sessions Judge, Mahila Court, Tiruchirappalli District, hence the petition is liable to be dismissed.

7. In the result, the petition stands dismissed.

11.08..2022

Internet: Yes
Index: Yes/No
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4/6



Crl.O.P.(MD) No 14393 of 2022

To

1. The Inspector of Police
All Women Police Station
Lalgudi, Trichy District
2. The Additional Public Prosecutor,
Madurai Bench of Madras High Court,
Madurai.



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Crl.O.P.(MD) No14393of 2022

V.SIVAGNANAM, J.

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Crl.O.P.(MD) No14393 of 2022

11.08..2022