

BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

Dated: 06.09.2022

CORAM:

THE HON'BLE MR.JUSTICE SATHI KUMAR SUKUMARA KURUP

Crl.O.P.(MD) No.15671 of 2022

Jahangir

..Petitioner

Vs.

The Sub Inspector of Police
All Women Police Station
South Gate, Madurai City

... Respondent

PRAYER: Criminal Original Petition filed under Section 482 Cr.P.C. praying to call for the records in Cr.M.P.No.503 of 2023 in Spl.S.C.No. 101 of 2020 on the file of the Principal Special Court for Exclusive Trial of cases under POCSO Act, Madurai dated 25.05.2022 and set aside the same.

For Petitioner : Mr.R.Mariappan

For Respondent : Mr.R.Sivakumar
Government Advocate(Crl.Side)

ORDER

This Criminal Original Petition has been filed to call for the records in Cr.M.P.No.503 of 2023 in Spl.S.C.No.101 of 2020 on the file of the Principal Special Court for Exclusive Trial of cases under POCSO Act, Madurai dated 25.05.2022 and set aside the same.

2. The learned Counsel for the Petitioner would submit that this petition has been filed to set aside the order passed by the learned Sessions Judge, Special Court for Exclusive Trial of Cases under the POCSO Act, Madurai dismissing the petition filed in Crl.M.P.No.503 of 2022 in Spl.S.C.No.101 of 2020 on 25.05.2022.

3. It is the submission of the learned Counsel for the Petitioner that the petition in Crl.M.P.No.503 of 2022 was filed under Section 311 of Cr.P.C to recall PW.1 to PW.4, however, the learned Sessions Judge had dismissed the same.

4. The learned Government Advocate (Crl. Side) would submit that it is a case under POCSO Act and the victim is aged about 10 years. The learned Counsel for the accused did not choose to cross examine the witnesses even though they were readily available before the Court. Therefore, the said petition was dismissed. He would further submit that L.W 5 to 7 were already examined and L.W.8 to 17 are going to be examined on 19.09.2022.

5. On perusal of the order passed by the learned Sessions Judge, Special Court for Exclusive Trial of cases under POCSO Act, Madurai, it is found that the judgment of the Hon'ble Supreme Court in ***Vinoth Kumar Vs. State of Punjab*** reported in ***2015(2) SCC Criminal 269*** has been relied by the learned Sessions Judge. Learned Session Judge also relied on the judgement of ***Prabhu @ Hamsa@ Abdul Lazeez Vs. State Rep. by the Inspector of Police, 2019(2)MWN Crl.171*** and ***State of Kerala Vs.Rasheed, (2019)1 MLJ Page 326.***

6. It is to be noted that in POCSO Act cases, the Hon'ble Supreme Court had given guidelines to the Courts dealing with the POCSO Act cases to dispose the cases within the limited time. Also in the same guideline, the Hon'ble Supreme Court had directed the High Court that the Special Judges of the POCSO Act cases shall not given cases other than the POCSO Act cases to enable the Sessions Court to dispose the caes without much delay.

7. In the case of ***Vinod Kumar Vs State of Punjab*** the Hon'ble Supreme Court had directed the High Courts of all the States to circulate that judgment to all the Judges in the District Judiciary in the State. Accordingly this Judgement was circulated through out the State of Tamil Nadu with a direction that trial judges shall not grant adjournment and the delay in trial will invite actions against the trial Judge for causing delay in the trial. Therefore, the Sessions Judges are doubly cautious regarding dilatory tactics employed by the counsel appearing for the accused in cases of this nature.

8. When the learned Sessions Judge is struck to the guidelines issued by the Hon'ble Supreme Court, filing of petition under Section 482 Cr.P.C, seeking to set aside the order cannot be entertained. It amounts to judicial indiscipline in not following the direction of the Hon'ble Supreme Court .

9. Hence this petition is dismissed.

06.09.2022

Internet:Yes

Index:Yes/No

Speaking/Non speaking order

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To

1. The Principal Special Court for Exclusive Trial of cases under POCSO Act, Madurai

2.The Sub Inspector of Police
All Women Police Station
South Gate, Madurai City

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

Crl.O.P.(MD) No.15671 of 2022

SATHI KUMAR SUKUMARA KURUP, J.

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