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BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

DATED: 26.09.2022

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THE HON'BLE MR.JUSTICE SATHI KUMAR SUKUMARA KURUP

CRL.O.P (MD) No.16805 of 2022
and Crl.M.P(MD) No.11238 of 2022

Mahadevan ...Petitioner

vs

The Inspector of Police
All Women Police Station
Papanasam
Thanjavur District ...Respondent

PRAYER: Criminal Original Petition filed under Section 482 of Cr.P.C, praying to set aside the order dated 10.8.2022 passed in Cr.MP.No.846 of 2022 in S.S.C.No.63 of 2019 on the file of the Special Court for Exclusive Trial of Cases Under POCSO Act,Thanjavur District

For Petitioner : Mr.K.Arunraj
For Respondent : Mr.R.Meenakshi Sundaram
Additional Public Prosecutor

O R D E R

This Criminal Original Petition has been filed to to set aside the order dated 10.8.2022 passed in Cr.MP.No.846 of 2022 in S.S.C.No.63 of

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2019 on the file of the Special Court for Exclusive Trial of Cases Under POCSO Act,Thanjavur District.

2. As per the submission of the learned Additional Public Prosecutor, the witness who is summoned by the prosecution is the Municipal Commissioner of Kumbakonam Municipality. As per the charge sheet, the victim was minor on the date of occurrence. Therefore, the birth certificate of the minor child is to be marked as document. The Parents of the victim turned hostile. Therefore, the prosecution has no choice to summon the Commissioner of Kumbakonam Municipality as a prosecution witness to mark documents which are important documents regarding the status of the victim as minor on the alleged date of occurrence. Therefore, the prosecution has filed a petition under Section 311 of Cr.P.C to summon the Commissioner of Kumbakonam Municipality. By summoning the Commissioner of Kumbakonam Municipality, the Petitioner who is the accused before the trial Court, is no way prejudiced. As per the provisions of POCSO Act, the birth certificate of the victim is an important document. Considering the validity of the said document, the learned Sessions Judge, Special Court for Exclusive Trial of Cases under the POCSO Act Cases had

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rightly allowed the petition filed by the prosecution. The learned Additional Public Prosecutor also requested that this petition may be dismissed.

3. Considering the nature of the case and the offence under the POCSO Act, the birth Certificate of the minor child is an important document in this case. In cases of this nature, either through the victim or through the Parents of the victim, birth certificate is marked by the prosecution. As rightly pointed out by the learned Additional Public Prosecutor, the prosecution could not mark the documents, namely, the birth certificate of the minor child through the parents of the minor. Therefore, before commencement of the prosecution witness, the prosecution has filed petition under Section 311 of Cr.P.C summoning the Commissioner of Kumbakonam Municipality. The objection of the learned counsel for the accused is found unacceptable and unreasonable, considering the nature of offence.

4. In the light of the above, the submission of the learned Counsel for the Petitioner is rejected and the submission of the learned Additional Public Prosecutor is accepted and this Criminal Original Petition is

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dismissed. The learned Sessions Judge, Special Court for Exclusive Trial of Cases Under POCSO Act,Thanjavur District is directed to proceed with the trial and dispose of the case as per law. Consequently connected miscellaneous petition is closed.

26.09.2022

Internet:Yes/No
Index:Yes/No
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To

1. The Sessions Judge
   Special Court for Exclusive Trial of Cases Under POCSO Act,
   Thanjavur District

2. The Inspector of Police
   All Women Police Station
   Papanasam
   Thanjavur District

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

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SATHI KUMAR SUKUMARA KURUP, J.

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