

HIGH COURT FOR THE STATE OF TELANGANA AT HYDERABAD

WEDNESDAY, THE FOURTEENTH DAY OF SEPTEMBER
TWO THOUSAND AND TWENTY TWO

PRESENT

THE HONOURABLE DR. JUSTICE CHILLAKUR SUMALATHA

CRIMINAL PETITION NO: 8218 OF 2022

Between:

Abdul Rehan @Abbu, S/o Abdul Rayees, Aged about 22 years, Occ: Auto Driver, R/o. Chilkurilaxmi Nagar, Adilabad.

...PETITIONER/ACCUSED

AND

State of Telangana, Rep. Public Prosecutor, High Court Judicature at Hyderabad For the State of Telangana , Through S.H.O P.S II-Town Adilabad.

...RESPONDENT/COMPLAINANT

Petition under Section 482 of Cr.P.C praying that in the circumstances stated in the Memorandum of Grounds of Criminal Petition, the High Court may be pleased to quash and Set-aside the order Dt. 18.08.2022 passed in Cri.M.P.No. 64 of 2022 in S.C(POCSO)No. 56 of 2020 On the file of the Hon'ble Special Court for Protection of Children From Sexual Offences Act-2012,At. Adilabad.

I.A. NO: 1 OF 2022

Petition under Section 482 of Cr.P.C praying that in the circumstances stated in the Memorandum of Grounds of Criminal Petition, the High Court may be pleased to stay of all further proceedings in S.C(POCSO)No.56 of 2020 On the file of the Honble Special Court for Protection of Children From Sexual Offences Act-2012,At. Adilabad pending disposal of the above criminal petition.

This Petition coming on for hearing, upon perusing the Memorandum of Grounds of Criminal Petition and upon hearing the arguments of Sri RAGAM VISHAL, Advocate for the Petitioner and the Public Prosecutor (TG) on behalf of the Respondent.

The Court made the following: ORDER

THE HON'BLE Dr.JUSTICE CHILLAKUR SUMALATHA

CRIMINAL PETITION No.8218 OF 2022

ORDER:-

1. Heard Sri Ragam Vishal, learned counsel for the petitioner as well as the learned Assistant Public Prosecutor.
2. Seeking the Court to quash the order that is rendered by the Special Court for trial of cases under Protection of Children from Sexual Offences Act, Adilabad, in Cr.I.M.P.No.64 of 2022 in S.C.No.56 of 2020, dated 18.08,2022, the present Criminal Petition is filed.
3. Learned counsel for the petitioner submits that the petitioner moved an application under Section 311 Cr.P.C. seeking the Court to recall PWs1, 2 & 4 for further cross-examination. But the said application was dismissed and aggrieved by the order of dismissal, the petitioner is before this Court seeking the Court to quash that impugned order. Learned counsel states that the petitioner, who is accused in the Sessions Case, has got every right to cross-examine the prosecution witnesses and the said indivisible

right cannot be curtailed. But the trial Court dismissed the application without valid grounds and hence, the impugned order has to be set-aside.

4. Per contra, the submission of the learned Assistant Public Prosecutor is that, the proceedings were initiated against the petitioner on the allegation that he committed offences punishable under Protection of Children from Sexual Offences Act and prosecution witnesses were cross-examined at length and no reasons are assigned for recalling them for further cross-examination and therefore, the trial Court has rightly dismissed the application and hence, the order needs no interference.

5. A perusal of the impugned order reveals the following facts:-

- (i) PWs 1 & 2 were examined- in chief and cross on 01.07.2022.
- (ii) PW4 was examined on 12.07.2022.
- (iii) Later, some more prosecution witnesses were examined.

6. Subsequently, the petitioner/accused moved Crl.M.P.No.64 of 2022 seeking the Court to recall PWs1, 2

and 4 on the ground that some important questions could not be put during the course of cross-examination.

7. Undoubtedly, right to cross-examine a witness is granted to the other party both in civil as well as on criminal side. In the case on hand, the allegation is that the petitioner has committed the offence punishable under Protection of Children from Sexual Offences Act. As per the version of the prosecution, the victim i.e. PW1 is a minor girl. The observation of the trial Court is that the victim should not be repeatedly called to the Court under the guise of further cross-examination. This Court is in full agreement to the said observation. Why the learned counsel for the petitioner who had cross-examined PWs 1, 2 & 4 could not put the alleged important questions during the course of cross-examination is not indicated anywhere. Undoubtedly, narrating the facts of the case before the Court of law by the victim, more particularly, in sexual offences, is more painful than the actual assault itself. Already, the alleged victim girl i.e. PW1 has sustained such a pain. Therefore, this Court is of the view that PW1

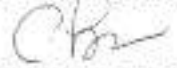
cannot be called to the Court again to sustain further pain. When an opportunity is accorded for cross-examining the witnesses, the accused should cross-examine the witnesses by putting all the material questions and elicit answers to those questions. In the case on hand, this Court does not find any injustice caused to the accused through the trial proceedings. Further, as earlier indicated, no reason is assigned as to why the alleged important questions were not put to those witnesses. Therefore, this Court is of the view that there are no grounds, whatsoever, to interfere with the reasoned order that is passed by the Special Court for trial of cases under Protection of Children from Sexual Offences Act, Adilabad.

8. Resultantly, the Criminal Petition is dismissed.

9. As a sequel thereto, miscellaneous petitions pending, if any, shall stand closed.

//TRUE COPY//

SD/- T. SRINIVAS
DEPUTY REGISTRAR


SECTION OFFICER

To,

1. The I Addl. Session Judge -cum- Spl. Judge for Trial of Cases under POCSO Act, Adilabad.
2. Two CCs to the Public Prosecutor, High Court for the State of Telangana at Hyderabad (OUT)
3. One CC to Sri Ragam vishal, Advocate [OPUC]
4. Two CD Copies

pmg.

HIGH COURT

CSL,J

DATED: 14/09/2022

ORDER

CRLP.No.8218 of 2022



DISMISSING THE CRIMINAL PETITION

(f) pma.
20/12/22