



WEB COPY



Crl.O.P.No.552 of 2023

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED:11.01.2023

CORAM

THE HONOURABLE MR. JUSTICE G.CHANDRASEKHARAN

Crl.O.P.No.552 of 2023

Kanagaraj

...Petitioner

Vs.

The State Rep.,by
The Inspector of Police,
AWPS East Police Station,
Coimbatore.

...Respondents

PRAYER: This Criminal Original Petition filed under Section 482 of Cr.P.C., to set aside the order passed in CMP No.1535/2022 in Spl CC No.3/2021 dated 23.12.2022 passed by the Special Court for Exclusive Trial of cases under POCSO act.

For Petitioner : Mr.B.Jawahar
For Respondent : Mr.S.Santhosh
Government Advocate (Crl.Side)

ORDER

This Criminal Original Petition has been filed to to set aside the order passed in CMP No.1535/2022 in Spl CC No.3/2021 dated 23.12.2022 passed by the Special Court for Exclusive Trial of cases under POCSO act.

2. The learned counsel for the petitioner submitted that PW2 was not



Crl.O.P.No.552 of 2023

effectively cross examined. Certain questions have been omitted to be asked.

Therefore, petitioner filed a petition under Section 311 of Cr.P.C for recalling PW2 for further cross-examination. However, the petition was dismissed on 23.11.2022 in C.M.P.No.1535 of 2022.

3. The learned Government Advocate (Crl. Side) opposes the petition on the ground that PW2 was effectively cross-examined. The reason stated that the petitioner's counsel failed to put certain questions on PW2 is not a ground to recall PW2 for further examination.

4. This Court on going through the order passed by the learned Sessions Judge in Crl.M.P.No.1535 of 2022 dated 23.12.2022 found that PW2 was chief examined on 25.05.2022 and on the same day she was cross examined in full length. The cross examination runs to three pages. That apart, eleven witnesses have been examined on the side of the prosecution. The petition was not filed at the earliest opportunity and filed belatedly. For all these reasons, the learned Judge dismissed the petition.

5. The reason stated for recalling PW2 for the purpose of further



Crl.O.P.No.552 of 2023

cross-examination is not an acceptable reason. Cross-Examination cannot be done in a piecemeal manner. Already PW2 was cross-examined at full length.

Thus this Court finds no reason to interfere with the order of the learned trial Judge.

6. In that view of the matter, this Court confirms the order passed by the learned Sessions Judge in Crl.M.P.No.1535 of 2022 dated 23.12.2022. Accordingly, this Criminal Original Petition is dismissed.

11.01.2023

sma/nst

To,

1. The State Rep.,by
The Inspector of Police,
AWPS East Police Station,
Coimbatore.
2. The Special Court for Exclusive Trial of cases under POCSO act,
Coimbatore.
2. The Public Prosecutor,
High Court of Madras.



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Crl.O.P.No.552 of 2023

G.CHANDRASEKHARAN,J.

sma/nst

Crl.O.P.No.552 of 2023

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