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Cr.L.O.P.No.1348 of 2023

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 24.01.2023

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THE HON'BLE Mr. JUSTICE G.CHANDRASEKHARAN

Cr.L.O.P.No.1348 of 2023

Krishnamoorthy

... Petitioner

Vs.

State through Inspector of Police,
Mettupalayam Police Station,
Puducherry through Special Public Prosecutor.
(Crime No.26 of 2022)

... Respondent

PRAYER: Criminal Original Petition is filed under Section 482 of the Code of Criminal Procedure, praying to set aside the order dated 11.11.2022 in Cr.M.P.No.2848 of 2022 in Special S.C.No.34 of 2022 and consequently direct the Special Judge at Puducherry, under POCSO Act, to allow the petitioner herein to cross examine PW1 in detail.

For Petitioner : Mr.M.Abdul Kareem

For Respondent : Mr.K.S.Mohandoss
Public Prosecutor (Pondicherry)

ORDER

This Criminal Original Petition has been filed to set aside the order dated 11.11.2022 in Cr.M.P.No.2848 of 2022 in Special S.C.No.34 of 2022 and



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consequently, to direct the learned Special Judge at Puducherry, under POCSO

Act, to allow the petitioner herein to cross examine PW1 in detail.

2. Learned counsel for the petitioner submitted that, petitioner is facing charges for the offences under Sections 6, 10, 12, 18 r/w 6 of POCSO Act and 376 (c), 506(ii) of IPC. PW1, victim girl was already examined in chief and cross examined on 15.06.2022. During the course of cross examination, certain aspects have been omitted to be asked and therefore, it is necessary for the accused to recall PW1, for the purpose of cross examination to establish his defense. However, without considering the petitioner claim, the petition was dismissed, necessitating filing of this petition.

3. Learned counsel for the respondent submitted that PW1 was effectively cross examined on 15.06.2022 itself. She is a victim girl aged only 14 years. There is a prohibition for repeated calling a victim girl for the purpose of examination. Section 311 Cr.P.C is misused. Further, he submitted that, the trial Court has rightly dismissed the petition.

4. Considered the rival submissions and perused the records.

5. It is seen from the orders of learned Judge that PW1, victim girl was examined both in chief and cross on 15.06.2023. PW1, victim girl is only



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aged 14 years. She is studying in 10th standard. It is submitted by the learned counsel for the respondent that, if PW1 is again called for further cross examination, it would cause mental and physical trauma to her, and her education would be spoiled. The Order of learned trial Judge also reads that victim girl was fully cross examined. There is a prohibition under Section 33(5) of POCSO Act to repeatedly summon the victim girl for the purpose of examination.

6. The Order of the learned trial Judge is a well considered and reasoned order. In this view of the matter and also the fact that PW1 was fully examined and the reason stated by the petitioner for further cross examination is not supported by any material, this Court is not inclined to interfere with the order of learned Special Judge at Puducherry, under POCSO Act. Therefore, the Order dated 11.11.2022 in Cr.M.P.No.2848 of 2022 in Special S.C.No.34 of 2022 passed by the learned Special Judge at Puducherry, under POCSO Act is confirmed. Accordingly, this Criminal Original Petition is dismissed.

24.01.2023

Index: Yes/No

Speaking Order: Yes/No

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To

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- 1.The Special Judge at Puducherry, under POCSO Act.
- 2.The Inspector of Police,
Mettupalayam Police Station,
Puducherry through Special Public Prosecutor.
- 3.The Public Prosecutor,
Madras High Court.



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G.CHANDRASEKHARAN.J.,

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