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Crl.O.P.No.12515 of 2023

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 06.06.2023

CORAM:

THE HONOURABLE MR. JUSTICE G.CHANDRASEKHARAN

Crl.O.P.No.12515 of 2023

and

Crl.M.P.No.7651 of 2023

Sathish

...Petitioner

Vs.

The State represented by,
The Inspector of Police,
All Women Police Station,
Bhavani,
Erode.
Crime No.2 of 2020.

...Respondent

PRAYER: Criminal Original Petition filed under Section 482 Cr.P.C. praying to set aside the order dated 16.05.2023 in Crl.M.P.No.469 of 2023 in Spl.S.C.No.44 of 2020, on the file of the Sessions Judge, Magalir Neethi Mandram, Fast Track Mahila Court, Erode.

For Petitioner : Mr.T.Balaji

For Respondent : Mr.Leonard Arul Joseph Selvam
Government Advocate (Criminal side)

ORDER



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This Criminal Original Petition is filed to set aside the order dated 16.05.2023 in Crl.M.P.No.469 of 2023 in Spl.S.C.No.44 of 2020, on the file of the Sessions Judge, Magalir Neethi Mandram, Fast Track Mahila Court, Erode.

2. It is the submission of the learned counsel for the petitioner that, PW1 to PW4 had been cross examined. However, petitioner filed petition for recalling of PW1 to PW4 for the reason that, these witnesses had illicit relationship with many men. The photos and videos of the illicit relationship are with this accused and also with Kumarapalayam Police Station. These child victims were having sexual relationship to their whims and fancies and with the person they liked. The petitioner is innocent. Unless petitioner is permitted to recall these witnesses, petitioner would be seriously pre-judiced. Therefore, petitioner filed Section 311 Cr.P.C petition for recalling the witnesses in Crl.M.P.No.469 of 2023. Without considering the merits in the claim of the petitioner, the petition was dismissed, necessitating filing of this petition.

3. In response, learned Government Advocate (Criminal side) submitted



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that, PW1 to PW4 had already been extensively cross examined by the accused. This petition is now filed only to protract the proceedings. Therefore, he prayed for dismissal of this petition.

4. Considered the submissions and perused the records.

5. The reading of the order of the learned Sessions Judge, Magalir Neethi Mandram (Fast Track Court), Erode, shows that the trial commenced in this case from 09.11.2022 and witnesses were examined from 09.11.2022 to 17.11.2022 and 17.03.2023. The case is now pending for defence evidence. At this stage, this petition is filed. It is further observed by the learned Judge that, reasons stated by the petitioner cannot be accepted for recalling the victims/witnesses. Allowing the petition, would paint the victims with bad character and it would cause psychological trauma and disturbance to the witnesses. Therefore, recalling of these witnesses cannot be permitted for questioning the character of the witnesses. For all these reasons, the learned Judge dismissed Crl.M.P.No.469 of 2023.

6. It is seen from the counter affidavit filed by the respondent that, petitioner who is the step father of the victim girls, said to have committed sexual harassment against the victim girls. The order reads that PW1 to PW4



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had been extensively cross examined by the petitioner. This Court finds that, PW1 to PW4 had also been cross examined extensively, permitting recall of victims for questioning their character cannot be accepted. If really the victim girls have bad character, the bad character is not a ground for the recalling the witnesses. Petitioner ought to have produced all these documents, when they were cross examined, with regard to the allegations raised by the petitioner. Since the case has reached the stage of defence evidence, recalling of witnesses cannot be permitted. There is no reason to interfere with the order of the learned Sessions Judge.

7. Accordingly, the Criminal Original Petition is dismissed and the order dated 16.05.2023 in Crl.M.P.No.469 of 2023 in Spl.S.C.No.44 of 2020 passed by the Sessions Judge, Magalir Neethi Mandram, Fast Track Mahila Court, Erode is confirmed. Consequently, the connected Miscellaneous petition is closed.

06.06.2023

Internet :Yes
Index :Yes/No
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To:

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- 1.The Sessions Judge,
Magalir Neethi Mandram,
Fast Track Mahila Court,
Erode.
- 2.The Inspector of Police,
All Women Police Station,
Bhavani,
Erode.
- 3.The Public Prosecutor,
High Court of Madras.



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G.CHANDRASEKHARAN, J.
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