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IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 04.08.2023

CORAM

THE HONOURABLE MR.JUSTICE N.ANAND VENKATESH

**Crl.O.P.No.17367 of 2023
and Crl.M.P.No.11248 of 2023**

Mr.Rahamathulla

.. Petitioners

Vs.

State Rep. By: The Inspector of Police,
Kanathur Police Station,
Chennai – 603 112
Crime No.404 of 2018

.. Respondent

PRAYER : Criminal Original Petition filed under Section 482 of the Code of Criminal Procedure, to set aside the order passed by the Sessions Judge, Special Court, Exclusive Trial of Case under POCSO Act, Chengalpattu in Spl.S.C.No.137 of 2019 dated 31.03.2023 by dismissing the petition filed under Section 311 of Cr.P.C. Consequently direct the learned Court to re-open the complainant side evidence to recall PW1 to PW4 and PW17 for further cross-examination.

For Petitioner : Mr.R.Sreedhar

For Respondent : Mr.A.Damodaran
Additional Public Prosecutor



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ORDER

This petition has been filed challenging the order passed by the Court below dismissing the application filed in CrI.M.P.No.1763 of 2022 under Section 311 of Cr.P.C., for recalling PW1 to PW4 and PW17 for the purpose of cross-examination.

2.The petitioner (A1) is facing trial before the Court below for offence under Sections 366, 342, 376(3) of IPC and 5(1) r/w 6 of Protection of Child from Sexual Offences Act, 2012 and 3(1)(W)(1) & 3(2)(V) of the SC and ST (Prevention of Atrocities) Amendment Act 2015.

3.Heard the learned counsel for the petitioner and also carefully perused the materials available on record.

4.It is seen from the order passed by the Court below that the witnesss viz., PW1 to PW4, PW10 and PW11 were in fact recalled based on the application filed by A2 and they were cross-examined by the counsel



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appearing on behalf of A2. When such cross-examination took place, the counsel for petitioner (A1) was also available and for some reason, the counsel did not choose to cross-examine the witness. After the cross-examination was completed on the side of A2. The petitioner has chosen to file a separate application to recall the same witnesses. The Court below has given sufficient reasons for dismissing the application and this Court does not find any illegality or infirmity in the order passed by the Court below.

5. In view of the above, this criminal original petition is dismissed and there shall be a direction to the Court below to complete the proceedings in Spl.S.C.No.137 of 2019, within a period of two months from the date of receipt of copy of this order. Consequently, connected miscellaneous petition is closed.

04.08.2023

Index : Yes/No
Speaking order: Yes/No
Neutral citation: Yes/No
SSR

To

1. The Sessions Judge, Special Court, Exclusive Trial of Case
under POCSO Act, Chengalpattu.



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N.ANAND VENKATESH, J

SSR

2.The Inspector of Police,
Kanathur Police Station,
Chennai – 603 112

3.The Public Prosecutor
High Court of Madras,
Madras.

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