



Crl.O.P.No.18977 of 2023

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 21.08.2023

CORAM :

THE HON'BLE MR.JUSTICE N.ANAND VENKATESH

**Crl.O.P.No.18977 of 2023
and Crl.M.P.No.12687 of 2023**

Pasupathy

.. Petitioner

Versus

**The State rep by the Inspector of Police,
Santhavasal Police Station,
Tiruvannamalai District.
(Crime No.405 of 2018)**

.. Respondent

Prayer : Criminal Original Petition filed under Section 482 of the Code of Criminal Procedure, to set aside the order, dated 08.02.2023 made in Crl.M.P.No.156 of 2023 in Spl.S.C.No.146 of 2019 passed by the Special Court for Exclusive Trial of cases under POCSO Act, Tiruvannamalai.

For Petitioner : Mr.Sathiyaraj.E

**For Respondent : Mr.A.Damodaran,
Additional Public Prosecutor**

ORDER

This petition has been filed challenging the order passed by the Court below in Crl.M.P.No.156 of 2023 in Spl.S.C.No.146 of 2019, partly



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dismissing the application filed under Section 311 of Cr.P.C., for recalling P.W.1, P.W.3 and P.W.13 for cross-examination and allowing the application insofar as P.W.11 and P.W.12 are concerned.

2. The petitioner is facing trial before the Court below for the offences under Sections 294(b), 324, 354D, 307 of I.P.C read with Section 12, 10, 9(r), 11(4) and 11(5) of the POCSO Act. The petitioner filed an application under Section 311 of Cr.P.C., to recall P.W.1, P.W.3, P.W.11, P.W.12 and P.W.13 for cross-examination. The said application was partly allowed by the Court below insofar as P.W.11 and P.W.12 are concerned and with respect to the other witnesses, namely P.W.1, P.W.3 and P.W.13, the same was dismissed. Aggrieved by the same, the present petition has been filed before this Court.

3. Heard Mr.E.Sathiyaraj, learned Counsel for the petitioner and Mr.A.Damodaran, learned Additional Public Prosecutor for the respondent.

4. It is seen from records that P.W.1 (victim girl) and P.W.3 (father of the victim girl) were examined in chief on 23.08.2021. They were not



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cross-examined on the same day and hence, their evidence was closed. The matter was at the stage of defence evidence and at that point of time, an application came to be filed under Section 311 of Cr.P.C., on 09.11.2022. This application was allowed and P.W.1 and P.W.3 were recalled for cross-examination. Both these witnesses were cross-examined on the side of the petitioner. Thereafter, the questioning under Section 313 of Cr.P.C., was completed and the evidence on the side of the defence was also closed and the matter was at the stage of final hearing. At this stage, the present application came to be filed in C.M.P.No.156 of 2023 to once again recall P.W.1 and P.W.3 for cross-examination. That apart, the petitioner also wanted to recall P.W.11, P.W.12 and P.W.13 for cross-examination.

5. The Court below, after carefully considering the claim made by the petitioner, came to a conclusion that P.W.1 and P.W.3 have already been cross-examined on the side of the petitioner and that they cannot be again and again recalled without any valid reasons. That apart, the Court below found that P.W.13 was the witness who went along with the victim girl for giving the complaint. This witness was also cross-examined on the side of the petitioner on 18.10.2022. Therefore, the Court below found that there



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was no reason to once again recall P.W.13. The Court below took into consideration the fact that P.W.11 and P.W.12 are the Police officers who registered the F.I.R and conducted the investigation and these witnesses were not cross-examined on the side of the petitioner and therefore, the Court below thought it fit to give an opportunity to the petitioner to cross-examine P.W.11 and P.W.12 by recalling them. The order passed by the Court below does not suffer from any illegality or infirmity and it does not warrant the interference of this Court in exercise of its jurisdiction under Section 482 of Cr.P.C.

6. In the light of the above discussion, this Criminal Original Petition stands dismissed. Consequently, connected miscellaneous petition is closed.

21.08.2023

Index : yes/no
Speaking order/Non-speaking order
Neutral Citation : yes/no
grs

To

1. The Special Court for Exclusive Trial of cases
under POCSO Act, Tiruvannamalai.



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2. The Inspector of Police,
Santhavasal Police Station,
Tiruvannamalai District.
3. The Public Prosecutor,
High Court of Madras.



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N.ANAND VENKATESH, J.

grs

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