



Crl.O.P.No.20169 of 2023

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 07.09.2023

CORAM

THE HONOURABLE MR. JUSTICE N. ANAND VENKATESH

Crl.O.P No.20169 of 2023

1.Manikandan
S/o.Balasubramani

2.Rani
W/o.Manikandan

...Petitioners

vs.

State by Tamil Nadu represented by
Inspector of Police,
Vellakovil Police Station,
Tiruppur.

...Respondent

PRAYER:

Criminal Original Petition filed under Section 482 of the Code of Criminal Procedure, praying to set aside the order of dismissal in respect of recalling of PW1 & PW2 dated 14.06.2023 made in Crl.M.P.No.708 of 2023 in Spl.S.C.No.66 of 2021 on the file of the Sessions Judge, Magalir Neethimandram, (FTMC) at Tiruppur by allowing this petition.

For Petitioners : Mr.K.Venkateswaran



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For Respondent : Mr.A.Damodaran

Additional Public Prosecutor

ORDER

This Criminal Original Petition has been filed challenging the order passed by the Court below dismissing the petition filed under Section 311 Cr.P.C. to recall PW-1 and PW-2 for cross-examination.

2. When the matter came up for hearing on 01.09.2023, this Court passed the following order:

"Mr.A.Damodaran, learned Additional Public Prosecutor takes notice on behalf of the respondent.

2. This is a case where the son of the petitioners had developed an affair with the daughter of the de-facto complainant and when both of them were minors, they are said to have eloped and married. The minor boy is said to have had sexual relationship with the minor girl. As a result, the mother of the victim girl filed a complaint and it was investigated in Crime No.310 of 2018. The parents of the boy have been made as accused and they are facing trial before the Court below for various offences and the minor boy was also made as an accused and he is facing proceedings before the Juvenile Justice Board.

3. The learned Counsel for the petitioners submitted that she has oral instructions to the effect that the boy and the girl got married



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and that she needs to get confirmation in this regard.

4. The learned Additional Public Prosecutor shall take instructions in this case.

5. Post this case under the same caption on 07.09.2023."

3. Heard Mr.K.Venkateswaran, learned counsel for petitioners and Mr.A.Damodaran, learned Additional Public Prosecutor appearing for respondent.

4. When the matter was taken up for hearing today, learned Additional Public Prosecutor, on instructions, submitted that the boy has got married to some other girl and the victim girl has got married to some other person. Learned Additional Public Prosecutor further submitted that the case is now at the stage of examination of other prosecution witnesses.

5. The petitioners are facing trial for major offences under the POCSO Act and considering the stringent punishment that has been provided, this Court deems it fit to afford one opportunity to the petitioners



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to recall PW-1 and PW-2 for further cross-examination. This Court has also taken into consideration the subsequent development that has taken in this case as submitted by learned Additional Public Prosecutor.

6. In the light of the above, the order passed by the Court below in Crl.M.P.No.708 of 2023 in Spl.S.C.No.66 of 2021, dated 14.06.2023, is hereby set aside. This Court below is directed to fix a date for the appearance of PW-1 and PW-2 and they shall be cross-examined on the same day. If, for any reason, the petitioners fail to cross-examine PW-1 and PW-2 on the date of their appearance, the petitioners will loose their right to recall these witnesses once again.

In the result, this Criminal Original Petition is allowed in the above terms.

07.09.2023

Index : Yes/No
Neutral Citation : Yes/No
Speaking Order/Non-Speaking Order
gm



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- 1.The Sessions Judge,
Magalir Neethimandram (FTMC),
Tiruppur.
- 2.The Inspector of Police,
Vellakovil Police Station,
Tiruppur.
- 3.The Public Prosecutor,
Madras High Court,
Chennai 600 104.



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N. ANAND VENKATESH, J
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