



Crl.O.P.No.22539 of 2023
& Crl.M.P.No.15728 of 2023

IN THE HIGH COURT OF JUDICATURE AT MADRAS

Dated: 12.10.2023

Coram:

THE HONOURABLE Dr. JUSTICE G.JAYACHANDRAN

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& Crl.M.P.No.15728 of 2023

Ayyappan (43 years),
S/o.Mani,
Manthoppu thidal,
Mathakalam, Valangaiman (TK),
Thiruvarur (DT).

... Petitioner/Accused

/versus/

The State by Inspector of Police,
Jayamkondam AWPS,
Ariyalur. Crime No.9/2021.

... Respondent/Complainant

Prayer: Criminal Original Petition has been filed under Section 482 of Cr.P.C.,
pleaded to set aside the order in Crl.M.P.No.1816 of 2023 dated 03.08.2023 on the
file of the Hon'ble Fast Track Mahila Court, Ariyalur ant to pass an order allowing
this Criminal Original Petition.

For Petitioner : Mr.X.Selvam Sounder

For Respondent : Mr.S.Udaya Kumar, Govt. Advocate (Crl.Side)



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ORDER

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In a case under POCSO Act, the Investigating Officer was examined as P.W.19 on 09.06.2023. For some reason, the accused was not able to cross examine. Thereafter, he has taken out an application to recall the Investigating Officer. However, the trial Court has declined the request stating that, there is no reasonable ground to exercise the power under Section 313 of Cr.P.C.

2. In the normal circumstances, this Court would have agreed with a view of the trial Court. But, in this case, the petition to recall is in respect of the Investigating Officer, who conducted the investigation and on that day, the accused was not able to cross examine the witness. Hence, it cannot be construed to pro-long the trial or sabotage the process of law. The person being the Investigating Officer sought to be recalled. It is essential to subject him to cross examine, which will help the Court to arrive just decision.

3. It is reported by the Learned Counsel for the petitioner that the case was posted tomorrow i.e., on 13.10.2023. The Learned Trial Judge is directed to repost the case on 18.10.2023. On that day, P.W.19 shall be present for cross



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examination. The petitioner should cross examine the witness, on that day or else he will lose the opportunity to cross examine. Thereafter, the trial Court shall proceed the case in accordance with law.

4. With the above direction, this Criminal Original Petition is Allowed. Consequently, connected Miscellaneous Petition is closed.

12.10.2023

Index :Yes/No.
Internet :Yes/No.
Speaking Order/Non-Speaking Order
bsm

Copy to:-

1. The Fast Track Mahila Court, Ariyalur
2. The Inspector of Police, Jayamkondam AWPS, Ariyalur.
3. The Public Prosecutor, High Court, Madras.



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Dr.G.JAYACHANDRAN,J.

bsm

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