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Crl.O.P.No.23758 of 2023



IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 18.10.2023

CORAM

THE HONOURABLE DR.JUSTICE G.JAYACHANDRAN

Crl.O.P.No.23758 of 2023

and

Crl.M.P.No.16505 of 2023

Murugesan

... Petitioner

Vs.

The Inspector of Police,
Eriyur Police Station,
Dharmapuri District.
Crime No.161 of 2022

... Respondent

Prayer: Criminal Original Petition is filed under Section 482 of Criminal Procedure Code, pleaded to set aside the order dated 18.08.2023 passed in C.M.P.No.1179 of 2023 in Spl.S.C.No.21 of 2023 on the file of the Fast Track Mahila Court, Dharmapuri and direct the trial Court to permit the petitioner to cross examine PW2.

For Petitioner : Mr.M.Karthik

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

ORDER



This Criminal Original Petition is filed seeking direction to set aside the order passed by the learned Fast Track Mahila Court, Dharmapuri in C.M.P.No.1179 of 2023 in Spl.S.C.No.21 of 2023 dated 18.08.2023 and direct the trial Court to permit the petitioner to cross examine PW2.

2. Petitioner, who is facing charge under Sections 5(m)(n), 6(1) of POCSO Act has taken out an application under Section 311 of Cr.P.C., to recall PW1 to PW4 for Cross Examination. By the time, he filed this recall petition. Prosecution has completed the examination of child witnesses except the Investigating Officer. The trial Court after considering the facts has partly allowed the petition for further cross examination in so far as PW1, PW3, PW4 & PW5, but declined to recall PW2 minor victim girl. The trial Court has given reason for not allowing the recall petition as against the minor victim girl and the reasons are legally sustainable. The victim girl being a minor cannot be disturbed and recalled at the instance of the accused, who had failed to avail the opportunity to cross-examine the victim girl when she was present. If the request of the petitioner is acceded, it will be harmful to the Victim.

3. Therefore, this Court is of the view that, the trial Court has rightly



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dismissed the recall petition filed by the petitioner in respect of PW2 and thus, this Court is not inclined to set aside the Crl.M.P.No.1179 of 2023 passed by the learned Fast Track Mahila Court, Dharmapuri datd 18.08.2023.

4. Accordingly, this Criminal original Petition is dismissed. Consequently, connected miscellaneous petitions are closed.

18.10.2023

Index : Yes/No
Neutral Citation : Yes/No
Sma

To

1. The Inspector of Police,
Eriyur Police Station,
Dharmapuri District.
2. The Public Prosecutor,
High Court, Madras.



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Dr.G.JAYACHANDRAN,J.

Sma

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