



Crl.O.P.No.1892 of 2023

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 22.08.2023

CORAM :

THE HON'BLE MR.JUSTICE N.ANAND VENKATESH

Crl.O.P.No.1892 of 2023

Arivazhagan

.. Petitioner

Versus

State represented by
The Inspector of Police,
Orathur Police Station,
Cuddalore District.
(Crime No.744 of 2020)

.. Respondent

Prayer : Criminal Original Petition filed under Section 482 of the Code of Criminal Procedure, to call for the records and set aside the order, dated 05.09.2022 made in Crl.M.P.No.1363 of 2022 in Spl.S.C.No.42 of 2021 on the file of Sessions Judge, Special Court for Exclusive Trial of Cases under POCSO Act, Cuddalore.

For Petitioner : Mr.A.Ramesh

For Respondent : Mr.A.Gopinath,
Government Advocate (Crl. Side)

ORDER



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This petition has been filed challenging the order passed by the Court below in C.M.P.No.1363 of 2022, dated 05.09.2022, dismissing the application filed under Section 311 of Cr.P.C., insofar as recalling P.W.1 for cross-examination.

2. Heard Mr.A.Ramesh, learned Counsel for the petitioner Mr.A.Gopinath, learned Government Advocate (Crl. Side) for the respondent.

3. The petitioner is facing trial before the Court below for offences under Section 9 of Prohibition of Child Marriage Act, 2008, Section 366 of I.P.C and Sections 5(n) and 6 of the POCSO Act. The petitioner filed an application to recall P.W.1, P.W.5 and P.W.7 for cross-examination. The Court below allowed the application partly and permitted recall of P.W.5 and P.W.7 for cross-examination. However, the Court below dismissed the application insofar as P.W.1 is concerned. Aggrieved by the same, the present petition has been filed before this Court.



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4. This Court carefully went through the evidence of P.W.1, when she was examined in chief by the prosecution. Considering the earlier relationship between the parties, this Court is inclined to give one last chance to the petitioner to recall P.W.1 for cross-examination. In view of the above, the order passed by the Court below in C.M.P.No.1363 of 2022, dated 05.09.2022 is hereby set aside. The Court below shall fix a date for the appearance of P.W.1 and the petitioner shall pay costs of Rs.1,500/- on the date of the appearance of P.W.1. P.W.1 shall also be cross-examined on the same day when she appears before the Court below and it should be completed on that day.

5. It is made clear that if P.W.1 is not cross-examined on the date of her appearance, the petitioner will lose his right to once again recall P.W.1 in future.

6. In the result, this Criminal Original Petition is allowed in the above terms and there shall be a direction to the Court below to complete the proceedings in Spl.S.C.No.42 of 2021 within a period of three months from the date of receipt of a copy of this order.



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

To

1. The Sessions Judge,
Special Court for Exclusive Trial of Cases
under POCSO Act, Cuddalore.
2. The Inspector of Police,
Orathur Police Station,
Cuddalore District.
3. The Public Prosecutor,
High Court of Madras.



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N.ANAND VENKATESH, J.

grs

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