



Crl.O.P.(MD).No.18654 of 2023

BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

DATED: 09.11.2023

CORAM

THE HON'BLE MR.JUSTICE G.ILANGO VAN

Crl.O.P.(MD).No.18654 of 2023

Stanly

... Petitioner

Vs.

The State rep.by
The Inspector of Police,
Marthandam Police Station,
Kanyakumari District.
(Crime No: 212 of 2016)

...Respondent

PRAYER : Criminal Original Petition filed under Section 482 of the Criminal Procedure Code, To call for the records of the order made in Crl.M.P.No.1392 of 2022 in Spl.S.C.No.01 of 2017 on the file of the Special Court for Exclusive Trial of cases under POCSO Act, Kanyakumari At Nagercoil dated 18.11.2022 and set aside the same and direct the trial Court to recall P.W.1 to 5 and P.W.24 for cross examination.

For Petitioner : Mr.M.Arikaran

For Respondent : Mr.M.Vaikkam Karunanithi
Government Advocate (Crl.side)



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ORDER

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This petition has been filed to set aside the order made in Crl.M.P.No.1392 of 2022 in Spl.S.C.No.01 of 2017 on the file of the Special Court for Exclusive Trial of cases under POCSO Act, Kanyakumari At Nagercoil, dated 18.11.2022 and direct the trial Court to recall P.W.1 to 5 and P.W.24 for cross examination.

2.On 17.10.2023, after hearing both side counsels, this Court called for a report from the Special Court for Exclusive Trial of Cases under POCSO Act, Kanyakumari, as to the stage of the trial process as well as the particulars with regard to the witnesses examined and whether they have been cross examined or not.

3.Today, report has been received from the concerned Court, wherein it is stated totally there are 24 witnesses. Out of 24 witnesses, P.W.1 to P.W.5 and P.W.24 were not cross examined by the petitioner.

4.The learned counsel appearing for the petitioner would submit that he filed an application under Section 311 Cr.P.C., seeking recall of



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P.W.1 to P.W.5 and P.W.24. That was dismissed by the trial Court stating that he has not assigned proper reasons for non cross examination of the witnesses on the date of chief examination. Aggrieved over the same, the present petition has been filed.

5.Considering the serious allegations against the petitioner and also considering the fact that the victim girl is now attained majority and running 23 years of age, this Court is of the view that one more opportunity may be given to the petitioner on payment of cost.

6.On that ground, this Court is inclined to pass the following order.

1.The order of dismissal passed by the Special Court for Exclusive Trial of cases under POCSO Act, Kanyakumari At Nagercoil, dated 18.11.2022, in Crl.M.P.No.1392 of 2022 in Spl.S.C.No.01 of 2017, is hereby set aside.

2.The petitioner must deposit a sum of Rs.5,000/- (Rupees Five Thousand only) as cost



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to the witnesses to the credit of Spl.S.C.No.01 of 2017 before the trial Court, within a period of fifteen days from the date of receipt of a copy of this order.

3.On such deposit, the trial Court is directed to recall the witnesses namely P.W.1 to P.W.5 and P.W.24 for cross examination by fixing a particular date. On that date, the petitioner must cross examine the witness without fail. If any failure is noticed, then the further right to cross examine the witness will be forfeited.

7.With the above said directions, this criminal original petition is allowed.

09.11.2023

NCC : Yes / No
Index : Yes / No
Internet : Yes / No
VSG



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To



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- 1.The Special Court for Exclusive Trial
of cases under POCSO Act,
Kanyakumari At Nagercoil.
- 2.The Inspector of Police,
Marthandam Police Station,
Kanyakumari District.
- 3.The Additional Public Prosecutor,
Madurai Bench of Madras High Court,
Madurai.



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G.ILANGOVAN,J.

VSG

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