



Crl.O.P.(MD).No.19432 of 2023

BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

DATED: 27.11.2023

CORAM

THE HON'BLE MR.JUSTICE G.ILANGO VAN

Crl.O.P.(MD).No.19432 of 2023

K.Balamurugan

... Petitioner

Vs.

State rep by
The Inspector of Police,
All Women Police Station,
Ottanchattram,
Dindigul District.

... Respondents

PRAYER : Criminal Original Petition filed under Section 482 of the Criminal Procedure Code, to call for the records of pertaining to the order passed by the learned Special Court (POCSO Act 2012) Dindigul in Crl.M.P.No.697/2023 in Spl.S.c.No.13/2023 dt 29.9.2023 and set aside the same.

For Petitioner : Mr.S.Sarvagan Prabhu

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



WEB COPY



Crl.O.P.(MD).No.19432 of 2023

ORDER

This Criminal Original Petition is filed to call for the records of pertaining to the order passed by the learned Special Court (POCSO Act 2012) Dindigul in Crl.M.P.No.697/2023 in Spl.S.c.No.13/2023 dt 29.9.2023 and set aside the same.

2. Seeking recall of P.W.1 and P.W.2 for the purpose of further cross examination, a petition under Section 311 of Cr.P.C., was filed by the petitioner before the trial Court, which came to be dismissed by the trial Court stating that cross examination of P.W.1 was already done and there is no scope for recalling the witnesses again. Aggrieved over the said order of the trial Court, this petition came to be filed.

3. As per the direction of this Court, the petitioner produced the deposition copy of P.W.1 and P.W.2. It is seen that P.W.1 was cross examined at length.



Crl.O.P.(MD).No.19432 of 2023

WEB COPY

4. Learned counsel for the petitioner would submit that the ingredients of the offences are not put to P.W.1 during the course of cross examination.

5. But the above statement cannot be taken into account at this stage. P.W.1 was cross examined in full and at length also. I find absolutely no reason to entertain the petition with regard to P.W.1. However, perusal of cross examination of P.W.2 shows that no proper cross examination was made by the accused side counsel.

6. On the sole ground the order of the learned Special Court (POCSO Act, 2012) Dindigul is partly set aside. Considering the above facts, permission is granted to the petitioner to recall P.W.2 ofcourse, on payment of Rs.3,000/- (Rupees Three Thousand only) to the accused. On such payment, the trial Court shall recall the P.W.2 for further cross examination by fixing a particular date. On the said date, the petitioner must cross examine the witness without any delay. Considering the oldness of the crime, a direction is given to the learned Judge, Special



Crl.O.P.(MD).No.19432 of 2023

Court (POCSO Act, 2012) Dindigul, to complete the trial within a period of four months from the date of receipt of a copy of this order.

7. Accordingly, this Criminal Original Petition is partly allowed.

27.11.2023

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

pnn

To

1. The Judge, Special Court (POCSO Act, 2012) Dindigul.
2. The Inspector of Police, All Women Police Station, Ottanchattram, Dindigul District.
3. The Additional Public Prosecutor, Madurai Bench of Madras High Court, Madurai.



WEB COPY



CrI.O.P.(MD).No.19432 of 2023

G.ILANGO VAN, J.

pnn

CrI.O.P.(MD).No.19432 of 2023

27.11.2023