



Crl.O.P.(MD)No.22712 of 2022

BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

DATED: **13.06.2023**

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CORAM:

THE HONOURABLE MR. JUSTICE **G.ILANGOVAN**

Crl.O.P.(MD) No.22712 of 2022
and Crl.M.P.(MD)No.16072 of 2022

A. Raja

... Petitioner

Vs.

State through

The Inspector of Police,

A.W.P.S, Tirupathur, Crime No.1 of 2019)

...

Respondent

PRAYER: Criminal Original Petition is filed under Section 482 of Cr.P.C, to set aside the order passed in Crl.M.P.No.1007 of 2022 in Spl.S.C.No.12 of 2019, dated 02.12.2022, on the file of the Sessions Judge, Special Court for Exclusive Trial of Cases under the POCSO Act, Sivagangai and to allow the Petition filed by the petitioner.

For Petitioner : Mr.K.P.Ramesh

For Respondent : Mr.B.Nambiselvan

Additional Public Prosecutor



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ORDER

This petition is filed to quash the order passed in CrI.M.P.No. 1007 of 2022 in Spl.S.C.No.12 of 2019, dated 02.12.2022, on the file of the Sessions Judge, Special Court for Exclusive Trial of Cases under the POCSO Act, Sivagangai.

2. A report has been called for from the Sessions Judge, Special Court for Exclusive Trial of Cases under the POCSO Act, Sivagangai, as to the status of the trial process, before the Court and on 25.04.2023, report has been submitted stating that prosecution side was examined in chief on 21.07.2022 and thereafter, it was adjourned for continuation for various dates, Pending continuation of chief examination of P.W.1, the prosecution moved the present application seeking a direction to issue summon to L.W. 2, to produce certain documents, with regard to the prosecution, where the complaints were given by some of the victims that petition was also allowed by the trial Court. Against which, this petition has been filed solely on the ground that when the chief examination of P.W.1 was not over, all of a sudden, the present application has been filed, without proper enquiry. Despite there is a small mistake that has been committed by the trial Court, whether the above said document sought to be produced is to be marked



through P.W.1 is not clear on record and whatever it may be, no damage to be caused to the petitioner, in producing the documents. He is entitled for copies before taking evidence of L.W.2.

3. Now, the grievance of the petitioner is that no such complaint has been given against this petitioner by any of the victims L.W. 2, even at the time of initiating action, under Section 482 Cr.P.C. and anticipatory bail, a specific stand was taken by him that no such complaint has been given. Whether any such complaint has been given, cannot be the matter for consideration before this Court and the petitioner has got every right to cross examine the witness at the relevant time. The contention that to fill up lacuna of the prosecution case, the above said documents are produced by way of recalling, cannot be entertained. As mentioned above, the veracity of the above said complaint can be tested only by the cross examination and not by this Court.

4. Another ground raised by the petitioner is that that above said recall application is not filed by the learned Additional Public Prosecutor, but, by the Investigation Officer. It is a simple issue that will not bear much upon the merits of case, so no interference is warranted.



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5. Let the examination of P.W.1 in chief and cross be over.

After that only, the examination of L.W.2 can be taken.

6. With the above said direction, this Petition is dismissed, without going into the other matters. Consequently, connected Miscellaneous Petition is closed.

NCC : Yes/No

Index : Yes/No

Ls

13.06.2023

To

1.The Sessions Judge,

Special Court for Exclusive Trial of Cases under the POCSO Act,
Sivagangai.

2. The Inspector of Police,

A.W.P.S, Tirupathur,

3.The Additional Public Prosecutor,

Madurai Bench of Madras High Court,
Madurai.



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G.ILANGO VAN. J.

Ls

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