



Crl.O.P.(MD).No.20502 of 2023

BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

DATED: 16.11.2023

CORAM

THE HON'BLE MR.JUSTICE G.ILANGO VAN

Crl.O.P.(MD).No.20502 of 2023

Muthupandi

... Petitioner

Vs.

The Inspector of Police,
All Women Police Station,
Theni,
Theni District.
(Crime No.14/2022)

...Respondents

PRAYER : Criminal Original Petition filed under Section 482 of the Criminal Procedure Code, to call for the records pertaining to the order in Cr MP No.77/2023 in Spl SC No.97/2023 dt.25.10.2023 on the file of the learned Principal Special Court for Exclusive Trial of Cases under POCSO Act, Theni and set aside the same.

For Petitioner : Mr.S.Mahendra pathy

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

ORDER

This petition has been filed to set aside the order in Cr MP No. 77/2023 in Spl SC No.97/2023 dt.25.10.2023 on the file of the learned



Crl.O.P.(MD).No.20502 of 2023

Principal Special Court for Exclusive Trial of Cases under POCSO Act,
Theni.

Originally the petitioner filed Cr.M.P.No.1589 of 2023 seeking recall of PW1 to PW7. That was allowed by the then trial Court namely Mahila Court, Theni, by the order dated 07.08.2023. After that the case was transferred to the newly constituted POCSO Court and reassigned as Spl.S.C.No.97 of 2023. After that before the newly constituted Court the petitioner could not appear on the date of presence of the witnesses on 11.10.2023.

Even though the grievance of the petitioner is genuine in nature, the learned Government Advocate (Crl. Side) would submit that the age of the victim is aged about 12 years. Recalling her for the purpose of cross examination is not proper in view of the specific bar.

Considering the fact that due to some administrative reasons, the petitioner could not followed the case after transfer, I am of the considered view that one more opportunity may be given to the petitioner



Crl.O.P.(MD).No.20502 of 2023

on payment of cost. The learned counsel for the petitioner would submit that he is not pressing the recall of PW8 to PW10. So far PW2 is concerned the order of the trial Court passed in Cr.M.P.No.77/2023 in Spl.S.C.No.97/2023 dt.25.10.2023 is hereby set aside.

Accordingly this petition stands allowed with the following conditions.

1) The petitioner must deposit a sum of Rs.5,000/- (Rupees Five Thousand only) as cost to the victim's (PW2) parent to the credit of Spl.S.C.No.97 of 2023 before the trial Court, within a period of fifteen days from the date of receipt of a copy of this order.

2) On such deposit, the trial Court is directed to recall the witness P.W.2 for cross examination by fixing a particular date. On that date, the petitioner must cross examine the above said witness without fail. If any failure is noticed, then the further right to cross examine the witness will be forfeited.

16.11.2023



Crl.O.P.(MD).No.20502 of 2023

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

To

- 1.The Inspector of Police,
All Women Police Station,
Theni,
Theni District.
(Crime No.14/2022)
2. The Additional Public Prosecutor,
Madurai Bench of Madras High Court,
Madurai.



WEB COPY



Crl.O.P.(MD).No.20502 of 2023

G.ILANGOVAN,J.

TM

Crl.O.P.(MD).No.20502 of 2023

16.11.2023