IN THE HIGH COURT OF KERALA AT ERNAKULAM

PRESENT

THE HONOURABLE MRS. JUSTICE SOPHY THOMAS

WEDNESDAY, THE 10TH DAY OF JANUARY 2024 / 20TH POUSHA, 1945

CRL.MC NO. 208 OF 2024

CRIME NO.759/2018 OF Chokli Police Station, Kannur

AGAINST THE ORDER/JUDGMENT SC 183/2020 OF FAST TRACK SPECIAL COURT, THALASSERY

PETITIONER/ACCUSED:

ABDUL HANEEFA
AGED 44 YEARS
S/O.MOIDU KUNHI HAJI, BADARIKADAMBU HOUSE,
LAPTANNUR, BANDYAL TALUK, SOUTH KANADA,
KARNATAKA, PIN - 574243

BY ADVS.
ADARSH KURIAN
ANWIN JOHN ANTONY

RESPONDENT/STATE:

STATE OF KERALA
REPRESENTED BY THE PUBLIC PROSECUTOR,
HIGH COURT OF KERALA,ERNAKULAM (REPRESENTING
STATION HOUSE OFFICER, CHOKLI POLICE STATION),
PIN - 682031

SR.PP-SRI.RENJIT GEORGE

THIS CRIMINAL MISC. CASE HAVING COME UP FOR ADMISSION ON 10.01.2024, THE COURT ON THE SAME DAY PASSED THE FOLLOWING:

SOPHY THOMAS, J
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Crl.M.C.No.208 of 2024
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Dated this the 10th day of January, 2024

ORDER

This is a petition under Section 482 of CrPC filed by the sole accused in SC 183/2020 on the file of the Fast Track Special Court, Thalassery, for quashing Annexure-3 order dated 24.11.2023.

2. The petitioner filed Section 311 CrPC petition as Crl.M.P.No.532/2023 before the Fast Track Special Court, Thalassery, for recalling the victim boy, who was examined as PW1 on 04.10.2023. According to learned counsel for the petitioner, some material questions were omitted to be asked during cross-examination. He filed an application under Section 311 CrPC earlier also, but it was dismissed for default. Subsequently, he filed Crl.M.P.No.532/2023, for the very same purpose.

3. The learned trial Judge in paragraph 7 of Annexure-3 order has stated that, on which aspect the witness has to be questioned further, was not clear from the petition filed by him. More over, the victim was cross-examined in detail on

04.10.2023. The victim boy was aged only 13 years, at the time of the alleged incident in the year 2018. So the Court found that there is no need for a further cross-examination of PW1.

Learned counsel for the petitioner would contend that the matter is settled and the parents of the victim boy turned hostile to the prosecution. Hostility of witnesses cannot be termed as settlement always. Since PW1 was cross-examined in detail on 04.10.2023 and the questions omitted to be asked during his cross-examination will not find a place in the petition, this Court finds no illegality and impropriety in Annexure-3 order. So this Crl.M.C. stands dismissed.

The petitioner is at liberty to file a fresh application, before the trial court stating the factum of settlement and the learned Sessions Judge on ascertaining the factual situation from the parents of the victim, is at liberty to entertain such application, and to pass orders in accordance with law.

Sd/-

SOPHY THOMAS
JUDGE

ACR

APPENDIX OF CRL.MC 208/2024

PETITIONER ANNEXURES

Annexure-1	TRUE COPY OF THE DEPOSITION DATED 04.10.2023 MADE BY PW1 IN SC NO.183/2020 BEFORE THE FAST TRACK SPECIAL COURT, THALASSERY.
Annexure-2	TRUE COPY OF THE PETITION DATED 23.011.2023 FILED BY THE PETITIONER UNDER SEC.311 CR.P.C
Annexure-3	TRUE COPY OF THE ORDER DATED 24.11.2023 IN CRL.M.P.NO.532/2023 IN SC NO.183/2020 OF THE FAST TRACK SPECIAL COURT, THALASSERY