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IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED :05.01.2024

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THE HONOURABLE MR.JUSTICE N.ANAND VENKATESH

CRL.O.P No.129 of 2024

Panneer

...Petitioner/Accused

Vs.

The State rep by
The Inspector of Police,
Vandavasi North Police Station,
Tiruvannamalai District.
(Crime No.29 of 2010)

...Respondent/Complainant

Prayer : Criminal Original Petition filed under Section 482 of Criminal Procedure Code, praying to set aside the order dated 27.12.2022 in CrI.M.P.No.1807 of 2022 in Spl.S.C.No.105 of 2020 passed by the Special Court for Exclusive Trial of Cases under POCSO Act, Tiruvannamalai and allow the above recall petition recalling the P.W.1 and P.W.2 for cross examination.

For Petitioner : Mr.G.Mageshkumar

For Respondent : Mr.A.Damodaran
Additional Public Prosecutor



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ORDER

This petition has been filed challenging the condition imposed by the Court below while allowing the application filed under Section 311 of Cr.P.C., to recall P.W.1 and P.W.2 for cross-examination.

2.Heard the learned counsel for the petitioner and learned Additional Public Prosecutor for the respondent.

3.The petitioner is facing trial before the Court below for the offences under Sections 450, 366(A), 376 & 506(ii) of IPC. The petitioner filed an application in CrI.M.P.No.1807 of 2022 to recall P.W.1 and P.W.2 for cross-examination. This application was allowed by the Court below by an order dated 27.12.2022. While allowing the application, the petitioner was directed to deposit a total cost of Rs.6,000/- before the Trial Court by an order dated 03.01.2023, failing which the petition will stand dismissed. This condition has been put to challenge in the present petition.



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4.It was brought to the notice of this Court that the case is now at the stage of cross-examination of P.W.6. That apart, the petitioner is inside the jail after a Non-bailable Warrant was executed against him. The case is now posted for cross-examination of P.W.6 on 09.01.2024.

5.Considering the facts and circumstances and in afford to offer one last opportunity to the petitioner, there shall be a direction to the petitioner to deposit the cost before the Trial Court on or before 08.01.2024. On such deposit, P.W.1 and P.W.2 can be recalled and they shall be cross-examined on the same day of their appearance. If for any reason the cost is not paid within the time frame fixed by this Court, the recall order will stand automatically cancelled. That apart, if the petitioner fails to examine P.W.1 and P.W.2 on the day of their appearance, the petitioner will lose his right to recall these witnesses.

6.In the result, this Criminal Original Petition is disposed of with the above directions.

05.01.2024

Index: Yes/No

Internet: Yes/No



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Note: Issue order copy on 05.01.2024.

N.ANAND VENKATESH.J.,

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To

1. The Special Court for Exclusive Trial of Cases under POCSO Act,
Tiruvannamalai.
2. The Inspector of Police,
Vandavasi North Police Station,
Tiruvannamalai District.
3. The Public Prosecutor,
High Court, Madras.

CRL.O.P No.129 of 2024

05.01.2024