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Crl O.P. No.3375 of 2024

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 20.02.2024

CORAM:

THE HONOURABLE MR. JUSTICE N.ANAND VENKATESH

Crl.O.P.No.3375 of 2024

Shahinsha S/o. Ismail

...Petitioner

Vs.

The Inspector of Police,
W-18, All Women Police Station,
MKB Nagar, Chennai.

...Respondent

PRAYER: Criminal Original Petition filed under Section 482 of Cr.P.C.,
to set aside the impugned order passed in Crl. M.P. No.92 of 2024 in Spl.
S.C. No.92 of 2020 dated 24.01.2024 on the file of learned Special Judge
for exclusive trial of cases under POCSO Act, Chennai and recall PW7
for cross examination.

For Petitioner

: Mr. L. Ramkumar

For Respondent

: Mr. A. Damodaran,
Additional Public Prosecutor.



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ORDER

This petition has been filed challenging the order passed by the Court dismissing the application in Spl. C.C. No.92 of 2020 under Section 311 of Cr.P.C. to recall PW7 for further cross examination.

2. Heard Mr. L. Ramkumar, learned counsel for the petitioner and Mr. A. Damodaran, learned Additional Public Prosecutor appearing for the respondent.

3. The petitioner is facing trial before the Court below for the offences under Sections 366, 354 B of IPC and Sections 5(k) and 6 of POCSO Act.

4. The case was at the stage of arguments. At that stage, the petitioner filed an application under Section 311 of Cr.P.c. to recall PW7 for further cross examination. The petitioner had stated in his application that some defence witnesses were examined and they have deposed certain facts which require to be contracted by questioning PW7. The Court below dismissed the application by an order dated 24.01.2024.



Aggrieved by the same, the present petition has been filed.

5. Taking into consideration the facts and circumstances of the case and also the serious charges for which the petitioner is facing trial before the Court below, this Court is inclined to give one last opportunity to the petitioner to recall PW7 for further cross examination on condition.

6. In view of the above discussion, the order passed by the Court below in Crl. M.P. No.92 of 2024 in Spl. S.C. No.92 of 2020 dated 24.01.2024 is hereby set aside. The investigation officer shall be present before the Court during the next date of hearing on 26.02.2024. The petitioner shall pay a cost of Rs.5,000/- to PW7. On such payment of cost, PW7 will be cross examined on the same day and cross examination will be completed on the same day.

7. If, for any reason, the petitioner fails to pay the cost or the petitioner fails to cross examine PW7 on the date of hearing, the petitioner will lose his right to recall PW7 in future.



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8. With the above directions, this Criminal Original Petition is disposed of.

20.02.2024

Index : Yes / No

Internet : Yes / No

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Note: Issue order copy on 26.02.2024

To

1. The Special Judge,
[for exclusive trial of cases under POCSO Act],
Chennai.
2. The Inspector of Police,
W-18, All Women Police Station,
MKB Nagar, Chennai.
2. The Public Prosecutor,
High Court of Madras,
Madras.



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N.ANAND VENKATESH, J.,

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