



Crl.O.P.No.8428 of 2024

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 05.04.2024

CORAM

THE HONOURABLE DR.JUSTICE **G.JAYACHANDRAN**

Crl.O.P.No.8428 of 2024
and Crl.M.P.No.6172 of 2024

Ayyappan,
S/o.Mani

... Petitioner

Vs.

The State by Inspector of Police,
Jyamkondam AWPS,
Ariyalur,
Crime No.9/2021

... Respondent

Prayer: Criminal Original Petition is filed under Section 482 of Criminal Procedure Code, to set aside the order in Crl.M.P.No.516/2024 in SPL.S.C.No.20/2021, dated 20.02.2024 on the file of the Hon'ble Fast Track Mahila Court, Ariyalur.

For Petitioner : Mr.X.Selvam Sounder

For Respondent : Mr.S.Udaya Kumar
Government Advocate (Crl.Side)

ORDER

This Criminal Original Petition is filed to set aside the order in Crl.M.P.No.516/2024 in SPL.S.C.No.20/2021, dated 20.02.2024 on the file of the Hon'ble Fast Track Mahila Court, Ariyalur.



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2. The petitioner is an accused in a POCSO offence, when the matter was posted for argument, he has filed an application for recall the witnesses, who have already been examined. The Trial Court after considering the reasons had declined to entertain the petition stating that already the earlier petition filed to recall the witnesses was dismissed at the intervene of the High Court.

3. The Trial had crossed the stage of questioning under Section 313 of Criminal Procedure Code and also the defendants witnesses were examined. The matter is posted for argument, at this juncture, the petitioner has come out with the new application, which is duly to delay the process.

4. This Court on perusing the reasoning found in the impugned order finds that, it is perfectly in consonance with law and therefore, the petition to recall the witness, which has been dismissed by the Trial Court is confirmed.



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5. Learned counsel for the petitioner further submits that there is violation in the entire prosecution that one of the witnesses was admitted that at the time of occurrence, the victim was aged about 19 and the learned counsel also refers to certain admissions of the Investigating Officer and the medical certificate found in Ex.P.7.

6. If it is so, it is for the trial Court to appreciate those documents in proper prospective and if the victim is aged above 18, certainly the offence of POCSO will not get attracted, but the general offence in IPC may get attracted.

7. Accordingly, the Trial Court shall consider the evidence available and proceed further in accordance with law.

8. With these observations, this Criminal Original Petition is dismissed. Connected miscellaneous petition is closed.

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Index : Yes/No

Neutral Citation : Yes/No

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Dr.G.JAYACHANDRAN,J.

mp

To

1. The Inspector of Police,
Jyamkondam AWPS,
Ariyalur.
2. The Fast Track Mahila Court,
Ariyalur
3. The Public Prosecutor,
High Court of Madras, Chennai.

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