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Crl.O.P No.6991 of 2024

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 25.03.2024

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THE HONOURABLE MR. JUSTICE N. ANAND VENKATESH

Crl.O.P No.6991 of 2024

S.Venkat

S/o.Sarangan

... Petitioner

vs.

State represented by

The Inspector of Police,

W-30 All Women Police Station,

Poonamallee, Chennai.

... Respondent

PRAYER: Criminal Original Petition filed under Section 482 of the Code of Criminal Procedure, to set aside the order passed by the learned Sessions Judge, Special Court for Exclusive Trial of Cases under POCSO Act, Chengalpattu in Crl.M.P.No.1374 of 2023 in Spl.S.C.No.61 of 2019 dated 03.01.2024 and thereby permit the petitioner to recall PW7 for cross examination in Spl.S.C.No.61 of 2019 on the file of the learned Sessions Judge, Special court for Exclusive Trial of Cases under POCSO Act, Chengalpattu.

For Petitioner : Mr.Jayasimhan T.Rajasuriya

For Respondent : Mr.A.Damodaran
Additional Public Prosecutor



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ORDER

This Criminal Original Petition has been filed challenging the order passed by the Court below in Crl.M.P.No.1374 of 2023 in Spl.S.C.No.61 of 2019 dated 03.01.2024 dismissing the application filed by the petitioner u/s.311 Cr.P.C. to recall PW-7 for cross-examination.

2. Heard Mr.Jayasimhan T.Rajasuriya, learned counsel for petitioner and Mr.A.Damodaran, learned Additional Public Prosecutor appearing for respondent.

3. The petitioner is facing trial before the Court below for various offences under the POCSO Act. The prosecution had examined PW-7 on 04.09.2023. However, there was no cross-examination on the side of the petitioner. Hence, the evidence of PW-7 was closed. The petitioner filed an application seeking recall of PW-7 and the same was dismissed by the Court below. Aggrieved by the same, the present petition has been filed.

4. In the considered view of this Court, the petitioner is facing



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serious charges before the Court below. Hence, one opportunity can be given to the petitioner to recall PW-7 for cross-examination.

5. In the light of the above discussion, the order passed by the Court below in Crl.M.P.No.1374 of 2023 in Spl.S.C.No.61 of 2019 dated 03.01.2024 is hereby set aside. The Court below is directed to recall PW-7 and fix a date for cross-examination of PW-7. On the date of appearance of PW-7, the cross-examination shall be done and it shall be completed on the same day. If for any reason, the petitioner fails to cross-examine PW-7, the petitioner will lose his right to recall PW-7 in future.

6. It is also made clear that the petitioner will cross-examine witnesses on the same day they are examined in chief and will co-operate for the early disposal of the case since the Spl.S.C.No.61 of 2019 is of the year 2019.

In the result, this Criminal Original Petition is allowed in the above terms and there shall be a direction to the learned Sessions Judge,

N. ANAND VENKATESH, J.



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Special Court for Exclusive Trial of Cases under POCSO Act,
Chengalpattu, to dispose of Spl.S.C.No.61 of 2019 within a period of
three (3) months from the date of receipt of a copy of this order.

25.03.2024

Index : Yes/No
Neutral citation: Yes/No
Speaking Order/Non-Speaking Order
gm

To

- 1.The Sessions Judge, Special court for Exclusive
Trial of Case under POCSO Act,
Chengalpattu.
- 2.The Inspector of Police
W-30 All Women Police Station
Poonamallee, Chennai
3. The Public Prosecutor,
High Court of Madras,
Madras.

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