



Crl.O.P.No.10919 of 2023

In the High Court of Judicature at Madras

Dated : 11.1.2024

Coram :

The Honourable Mr.Justice N.ANAND VENKATESH

Criminal Original Petition No.10919 of 2023

Periyasamy

...Petitioner

Vs

The State rep.by
The Inspector of Police,
Anamalai Police Station,
Coimbatore District.

...Respondent

PETITION under Section 482 of the Criminal Procedure Code praying to set aside the order dated 28.12.2022 in Crl.M.P.No.1442 of 2022 passed by the learned Sessions Judge, Principal Special Court for Exclusive Trial of Cases under the POCSO Act, Coimbatore and allow the petitioner to recall the prosecution side witnesses PW1 to PW3 for cross examination.

For Petitioner : Mr.Krishnasamy Chinnasamy
For Respondent : Mr.A.Gopinath, GA (Crl.Side)

ORDER

This is a petition filed by the petitioner challenging the order passed by the Court below dismissing the application filed him under Section 311 of the Criminal Procedure Code to recall P.W.1 to P.W.3



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for cross examination.

2. Heard the learned counsel for the petitioner and the learned Government Advocate (Crl.Side) appearing for the respondent.

3. The petitioner is facing trial before the Court below for offences under Sections 4(2), 5(i)(n), 6, 8(i)(m)(n) and 10 of the Protection of Children from Sexual Offences Act read with Section 506(ii) of the Indian Penal Code.

4. The case of the prosecution is that the petitioner, who is the father, had sexually abused his daughters repeatedly. The victim girls were examined as P.W.1 to P.W.3 and they were not cross examined. Later, the petitioner filed an application to recall P.W.1 to P.W.3 for cross examination. This application was dismissed by the Court below by the impugned order since no valid reasons were given as to why the victim girls were not cross examined on the day when they were examined in chief. The Court below also took into account the restriction imposed under Section 33(5) of the said Act.



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5. The learned Government Advocate (Criminal Side) appearing for the respondent submitted that in this case, nearly 23 prosecution witnesses were examined, that the petitioner has not cross examined any of the witnesses, that the conduct of the petitioner is only to drag on the proceedings and that the petitioner has not given any valid reasons as to why P.W.1 to P.W.3 were not cross examined on the day when they were examined in chief.

6. Considering the facts of this case, the victim girls cannot be made to suffer the ignominy of repeating the abuse that they underwent in the hands of their father.

7. In the result, the above criminal original petition is dismissed. There shall be a direction to the Court below to complete the proceedings in Special S.C.No.36 of 2022 within a period of two months from the date of receipt of a copy of this order.

11.1.2024

RS



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N.ANAND VENKATESH,J

RS

To

- 1.The Sessions Court/Principal Special Court
for Exclusive Trial of Cases under
the POCSO Act, Coimbatore.
- 2.The Inspector of Police,
Anamalai Police Station,
Coimbatore District.
- 3.The Public Prosecutor,
High Court, Madras.

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