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CrI.O.P.No.13615 of 2024

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 12.06.2024

CORAM

THE HONOURABLE DR.JUSTICE G.JAYACHANDRAN

CrI.O.P.No.13615 of 2024

1.Hidayathulla Khan
2.Haffezulla Khan
3.Kalimulla Khan
4.Mumtaj Begum

... Petitioners

Vs.

The State Rep.by
The Inspector of Police,
All Women Police Station,
Vellore.
(Crime No.06 of 2019)

... Respondent

Prayer: Criminal Original Petition is filed under Section 482 of Criminal Procedure Code, pleaded to set aside the order passed by the learned Special judge for Exclusive Trial of Cases under POCSO Act, 2012, Vellore District in CrI.M.P.No.445 of 2024 in Spl.S.C.No.113 of 2021.

For Petitioners : Mr.S.Suresh
For Respondent : Mr.S.Udaya Kumar
Government Advocate (CrI.Side)

ORDER

The petitioners 1 to 4 are accused in Spl.S.C.No.113 of 2021 on the file of the Special Court for POCSO offences, Vellore.



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2. At the fag end of the trial when the matter was posted for arguments, a petition under Section 311 Cr.P.C., filed by the accused/petitioners seeking to reopen the case and permit them to examine further defence witnesses. The trial Court considering the reasons stated in the reopen petition for adducing additional defence witness has held that the accused persons were allowed to examine defence witness particularly, the doctor who had examined mental status of the victim child. The report of the doctor is now sought to be referred to the committee of Mental Health Board as contemplated under Section 105 of the Mental Health Act, 2017. The trial Court has gone through the records and has observed that the accused persons initially approached the High Court seeking direction to mark documents through their witnesses and that application was disposed of. The accused persons shall exhaust their right through the witnesses who have already been summoned and directed the trial Court to complete the trial within a period of three months from the date of receipt of a copy of the order. While so, the trial Court has felt that the facts and circumstances of the case does not warrant entertaining the petition to reopen and exercise the power under Section 105 of the Mental Health Act.

3. Since adequate opportunity already been given to the



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accused and also Court itself had satisfied with the report and the evidence been let in on either side regarding mental status of the victim persons, the suspect of victims mental health need not be subjected to any test. The trial Court has also observed that in respect of mental health of the victim children, defence has also marshalled their witness by name Dr.Sathyaraj who was examined as DW.4 and therefore, there is no reason to reopen the case for further defence evidence.

4. This Court on perusing the order of the trial Court which is impugned, finds that the trial Court has rightly understood the issue before it and had observed that the victims are children and there is no dispute over it. Irrespective of their mental capability and status what has required to be determined in the case is whether the children were subjected to sexual assault or not. The Court is not testing whether the victim children suffer Post Traumatic Stress Disorder (PTSD) disorder which is not a factor crucial to arrive at just conclusion. This Court fully agree with the reasoning given by the Court below for disallowing the petition under Section 311 Cr.P.C.

Dr.G.JAYACHANDRAN,J.

rpl



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5. Hence this Criminal Original Petition is dismissed as devoid
of merits.

12.06.2024

Index : Yes/No

Neutral Citation : Yes/No

rpl

To

1.The Inspector of Police,
All Women Police Station,
Vellore.

2.The Public Prosecutor,
High Court of Madras,
Chennai.

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