



Crl.O.P.No.27603 of 2024

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IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 02.12.2024

CORAM :

THE HONOURABLE MR. JUSTICE P.VELMURUGAN

Crl.O.P.No.27603 of 2024

N.Elumalai

... Petitioner

Vs.

State Rep. by,
The Inspector of Police,
AWPS Gingee,
Villupuram District.
(Cr.No.37 of 2021)

...Respondent

Prayer: Criminal Original Petition filed under Section 528 BNSS, to set aside the order dated 13.09.2024 made in Crl.M.P.No.747 of 2024 in Spl.S.C.No.61 of 2022 on the file of the Sessions Judge, Special Court for Exclusive Trial of Cases under POCSO Act, Villupuram.

For Petitioner : Mr.R.Sasikumar

For Respondent : Mr.S.Sugendran,
Additional Public Prosecutor



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ORDER

This petition has been filed seeking to set aside the order dated 13.09.2024 made in Crl.M.P.No.747 of 2024 in Spl.S.C.No.61 of 2022 by the learned Sessions Judge, Special Court for Exclusive Trial of Cases under POCSO Act, Villupuram.

2 Learned counsel for the petitioner would submit that the petitioner at the time of cross examination of P.Ws.1 to 4 omitted to cross examine them on some significant points, which are valuable to prove the case of the defence. The trial Court failed to consider the above fact and erroneously dismissed the petition filed by the petitioner under Section 311 of Cr.P.C., which warrants interference of this Court.

3 Learned Additional Public Prosecutor for the respondent police would submit that the petitioner is an accused for the offence punishable under the POCSO Act and P.Ws.1 and 2 were examined in chief on 15.11.2022 and they were also cross examined on the same day itself. Further P.Ws.3 and 4 were examined in chief on 28.07.2023 and they were also cross examined on



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the same day itself. Now the case is posted for examination of P.W.5, the Investigating Officer.

4 Heard the learned counsel for the petitioner and the learned Additional Public Prosecutor for the respondent and perused the materials available on record.

5 It is seen that P.Ws.1 and 2 are 9 years old victim children, and they were examined both in chief and cross on 15.11.2022 and the petitioner/accused, after two years, seeking to recall the above witnesses for cross examination. In the cases under the POCSO Act, this Court and the Hon'ble Supreme Court time and again reiterated that the victim children should not be dragged on to the Court for examination and once the victims were appeared before the Court for examination, counsel for the defence should be very cautions and they should put all the questions at that time and once again the victims should not be dragged on, especially in the cases under the POCSO Act. Therefore the learned Sessions Judge, has rightly dismissed the petition under Section 311 Cr.P.C. , which according to this Court does not call for any interference. However, it is stated that the case is posted for



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examination of P.W.5, the Investigating Officer and the petitioner can cross
examine the Investigating Officer.

6 Accordingly, this Criminal Original Petition stands dismissed.

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Speaking Order/Non Speaking Order
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To

1. The Sessions Judge, Special Court for Exclusive Trial of Cases under POCSO Act, Villupuram.
2. The Inspector of Police, AWPS Gingee, Villupuram District.
3. The Public Prosecutor, High Court of Madras.



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P.VELMURUGAN, J.,

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