



CrI.OP(MD).No.2438 of 2023

BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

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DATED: **25.03.2024**

CORAM:

THE HONOURABLE **MR.JUSTICE SATHI KUMAR SUKUMARA KURUP**

CrI.OP(MD).No.2438 of 2023

and

CrI.M.P.(MD).No.3702 of 2023

S.Dhinesh

... Petitioner/Accused

/vs./

1.The Sub-Inspector of Police,
All Women Police Station,
Musiri,
Tiruchirappalli District.
(Crime No.19 of 2021).

...1st Respondent/Complainant

2.Social Extension Officer,
Thottiyam Taluk,
Trichy District.

...2nd Respondent/De-facto Complainant

3.xxxxxxxxxx

...3rd Respondent/Victim girl

Prayer : Criminal Original Petition filed under Section 482 of the Code of Criminal Procedure, to call for the records relating to S.C.No.12 of 2022 on the file of the learned Mahila Court, Tiruchirappalli and quash the same recording the Joint Compromise Memo filed along with this petition.

For Petitioner : Mr.N.Sudhagar Nagaraj

For R-1 : Mr.B.Thanga Aravindh
Government Advocate
Criminal Side

For R-3 : Mr.A.George Stephen Kanikkairaj



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ORDER

The petitioner has instructed his Counsel to withdraw the petition. Accordingly, the learned counsel appearing for the Petitioner seeks permission of this Court to withdraw this petition and has circulated a letter in this connection.

2. Hence, permission is granted and accordingly, the Criminal Original Petition is dismissed as withdrawn.

3. The Hon'ble Supreme Court in ***Sarguja Transport Service vs State Transport Appellate Tribunal and others***, reported in ***(1987) 1 SCC 5***, held that if a Writ Petition/Original Petition is withdrawn, the party in that Petition cannot file a fresh Petition on the same cause of action. Only if the right to sue for the same cause of action is reserved before seeking dismissal of the suit/Writ Petition as not pressed, he/she can file a fresh Petition. In such cases, if the Writ Petition/suit/Original Petition had been dismissed as withdrawn, the Petitioner in such a case, loses his/her right to file a fresh Writ Petition on the same cause of action.



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4. In the present petition, the case in Special S.C.No.12 of 2022 arise out of offences punishable under Section 9 of Prohibition of Child Marriage Act, 5(1), 6(1), 5(n) of POCSO Act, 2012, Section 366 IPC and the same is pending before the learned Sessions Judge, Mahila Court, Tiruchirappalli. As per the case status of the pending case on the file of the learned Sessions Judge, Fast Track Mahila Court, Tiruchirappalli, the status read as "evidence". The learned Sessions Judge, Fast Track Mahila Court, Tiruchirappalli is therefore directed to dispose of the case in S.C.No.12 of 2022 within a reasonable period of three months as per the Diktat of the provisions of Protection of Child from Sexual Offences (POCSO) Act, 2012 without any adjournments. If the witness depose before the Court, the learned Counsel for the accused shall be prevailed upon to cross examine the witnesses on the same date as per the directions issued by the Hon'ble Supreme Court to the Trial Judges across India not to grant adjournment in the sessions cases and not to exercise power of recall under Section 311 Cr.P.C leniently, as per reported ruling in ***Vinod Kumar Vs State of Punjab*** reported in (2015) 1 MLJ (Crl) 288 (SC). Consequently, connected miscellaneous petition is closed.

25.03.2024

NCC : Yes / No
Index : Yes / No
Internet : Yes / No
Nsr



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TO:
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- 1.The Sessions Judge,
Fast Track Mahila Court,
Tiruchirappalli.
- 2.The Sub-Inspector of Police,
All Women Police Station,
Musiri,
Tiruchirappalli District.
- 3.The Additional Public Prosecutor,
Madurai Bench of Madras High Court,
Madurai.



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SATHI KUMAR SUKUMARA KURUP, J.

Nsr

Order made in
Crl.OP.(MD).No.2438 of 2023

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25.03.2024