



CrI.O.P.(MD) No.2055 of 2024

BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

DATED: 09.02.2024

CORAM

THE HON'BLE MR.JUSTICE SATHI KUMAR SUKUMARA KURUP

CRL.O.P(MD)No.2055 of 2024

Solaiyappan

...Petitioner

VS

**The Inspector of Police,
All Women Police Station,
Kovilpatti.**

...Respondent

PRAYER: Criminal Original Petition filed under Section 482 of Cr.P.C, praying, to set aside the order passed in Cr.M.P.No.944 of 2023 in Spl.S.C.No.165 of 2019, dated 06.11.2023 on the file of the Special Court for Exclusive Trial of Cases under POCSO Act, Thoothukudi and to recall the witness PW-1 to PW-4 for further cross examination.

For Petitioner : Mr.P.T.Ramesh Raja
For Respondent : Mr.B.Thanga Aravindh
Government Advocate (crl.side)



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ORDER

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The learned Counsel for the Petitioner submitted that this Petition had been filed seeking to set aside the order passed in Cr.M.P.No.944 of 2023 in Spl.S.C.No.165 of 2019, dated 06.11.2023 on the file of the Special Court for Exclusive Trial of Cases under POCSO Act, Thoothukudi and to recall the witness PW-1 to PW-4 for further cross examination.

2.It is the submission of the learned Counsel for the Petitioner that PW-3 and PW-4 are victims. The victims were cross examined then and there. He wanted to recall PW-1 and PW-4. It is his submission that as per the POCSO Act, the victim of the crime shall not be recalled repeatedly. Here, they are not recalled repeatedly. Hence, he sought one opportunity for recalling PW-1 and PW-4 for further cross examination.

3.The learned Session Judge in his order dated 06.11.2023, dismissed the said Petition on three grounds citing the provisions of POCSO Act; that the victim of POCSO crime shall not be repeatedly recalled and on the ruling of the Hon'ble Supreme Court in *Vinod Kumar vs State of Punjab*



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reported in (2015) 3 SCC 220 and the reason for further cross examination had not been stated in the Petition. Hence, the learned Counsel for the Petitioner submitted that the order passed by the learned The Sessions Judge, Special Court for Exclusive Trial of Cases under POCSO Act, Thoothukudi. is perverse and is to be set aside.

4.On perusal of the order impugned, it is found that the said order has been passed as per the reported ruling of the Hon'ble Supreme Court in ***Vinod Kumar vs State of Punjab*** reported in ***(2015) 3 SCC 220***. In the said judgment, the Hon'ble Supreme Court had clearly issued directions to the High Courts throughout India to circulate the said judgment to all the Trial Judges in the territory of the High Court and get an acknowledgement. I, as a Sessions Judge on the date of assuming charge as Sessions Judge at Kanniyakumari, received a copy of this judgment and had given acknowledgement on receipt of the same to the High Court. Therefore, as per the dictum/ruling of Hon'ble Supreme Court, any violation will attract disciplinary proceedings and that the Trial Judges are at risk of violating the judgment of Hon'ble Supreme Court, if the Petition under section 311 of Cr.P.C., is allowed mechanically and leniently.



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5.It is the course in the criminal justice system that the criminal justice system as available in India is accused friendly and not victim friendly, in not appreciating the pain and agony of the victim of the crime. If the arguments of the learned Counsel for the Petitioner is to be accepted, the High Court exercising the power under Section 482 of Cr.P.C., will have to dilute the judgment of the Hon'ble Supreme Court in ***Vinod Kumar vs State of Punjab***. Therefore, the submission of the learned Counsel for the Petitioner is rejected and the order passed by the learned Session Judge is found well reasoned order. It does not warrant any interference by this Court by exercising the power under Section 482 of Cr.P.C.

6.In the result, this ***Criminal Original Petition*** is dismissed.

Internet :Yes/No
Index :Yes/No
NCC :Yes/No
cmr

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To

1.The Sessions Judge,
Special Court for Exclusive Trial of
Cases under POCSO Act, Thoothukudi.

2.The Inspector of Police,
All Women Police Station,
Kovilpatti.



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SATHI KUMAR SUKUMARA KURUP, J.

cmr

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