



CRL.R.C.(MD).No.551 of 2024

BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

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Reserved on : 26.06.2024

Delivered on : 16.08.2024

CORAM

THE HONOURABLE MR. JUSTICE K.K.RAMAKRISHNAN

Crl.R.C.(MD).No.551 of 2024
and Crl.M.P(MD).No.5674 of 2024

K.Madhan

... Petitioner

Vs.

The State Rep. By its,
The Inspector of Police,
All Women Police Station,
Kovilpatti,
Thoothukudi District.

... Respondent

PRAYER: This Civil Revision Case is filed under Sections 397 r/w 401 of the Criminal Procedure Code, to call for the records pertaining to the order passed in Cr.M.P.No.535 of 2024 in Spl.S.C.No.20 of 2022 dated 15.03.2024 on the file of the learned Mahila Judge/Additional POCSO Judge, Thoothukudi and set aside the same by allowing the revision petition.

For Petitioner : Mr.T.Manikandan
For Respondent : Mr.B.Nambiselvan
Additional Public Prosecutor



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ORDER

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This Criminal Revision Case has been filed to call for the records pertaining to the order passed in Cr.M.P.No.535 of 2024 in Spl.S.C.No.20 of 2022 dated 15.03.2024 on the file of the learned Mahila Judge/Additional POCSO Judge, Thoothukudi and set aside the same.

2. The petitioner is the sole accused in Spl.S.C.No. 20 of 2022 on the file of the Learned Mahila Court/Additional POCSO Court, Thoothukudi. He filed the petition under Section 233 of Cr.P.C in Cr.M.P.No.535 of 2024 to examine the Information Officer of the District Headquarters Government Hospital, Kovilpatti and the Manager of the Satyabhama Transport to prove his defence.

3. The learned Trial Judge by the order dated 15.03.2024 partly allowed the petition, allowing him to examine the Manager Satyabhama Transport and dismissed the petition relating to the examination of the Information Officer of the Headquarters Government Hospital, Kovilpatti. Challenging the same, the petitioner filed this petition.



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4. The Learned Counsel for the Petitioner submitted that since accused/petitioner is facing the grave charge for the offence of the penetrative sexual assault on the victim girl and the presumption clause is provided under the Act, onus is on him to rebut the presumption and hence, in the interest of justice, the examination of the Information Officer of the District Headquarters Government Hospital, Kovilpatti, is necessary to prove his case that he was not in the occurrence place as alleged by the victim girl. The said witness was a material witness to prove the topography of the occurrence place. Hence, he seeks for the examination of said witness.

5. The learned Additional Public Prosecutor appearing for the respondent police, based upon the records, impugned order and on instructions, submitted that the occurrence took place as per the evidence of the victim girl is concerned, it is far away from the children ward. The topography of the occurrence place is clearly deposed by the observation mahazar witnesses and the Investigation Officer. There was no question disputing the topographies have been made to the Information Officer of the District Headquarters Government Hospital, Kovilpatti. Hence, the petitioner has filed the above petition in order to protract the proceedings.



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6. This Court considered the rival submissions of both side counsel and perused the records.

7. The prosecution case is that P.W.1/victim's mother was admitted in Kovilpatti Government Hospital since 15.06.2022. The victim girl was studying 12th Standard. Daily after her school hours, she went to the hospital and stayed with her mother. In the said circumstances, the petitioner who is a minibus driver developed contact with the victim girl. On 18.07.2022, at 10.30 p.m., he is said to have committed penetrative sexual assault upon the victim girl in the place situated in the Government Hospital away from the children ward. On the next day, the victim girl informed the said incident to her mother and thereafter, FIR was registered against the petitioner. After completing the investigation, the respondent police filed a final report before the concerned Court and the same was taken on file in Spl.S.C.No.20 of 2022.

8. To prove the prosecution case, ten witnesses have been examined as P.W.1 to P.W.10.



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9. P.W.10/Investigation Officer conducted the investigation and drew the sketch and also prepared the observation Mahazar. No questions were addressed to the said witnesses relating to the topography of the said occurrence place.

10. Even during the cross examination of P.W.1, no question was asked, but he ascertained the fact that the occurrence place is at 5 minutes walkable distance from the children ward. In the said circumstances, the plea of the petitioner to examine the Information Officer is not at all acceptable and hence, this Court is not inclined to accept the plea of the petitioner and the learned trial Judge rightly dismissed the petition and also this Court does not find any merits in the petition. Accordingly, this Criminal Revision Case is dismissed. Consequently, the connected miscellaneous petition is closed.

16.08.2024

Index : Yes / No
Internet : Yes / No
tta/vsg



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To,

1. The Inspector of Police,
All Women Police Station,
Kovilpatti,
Thoothukudi District.
2. The Mahila Court/Additional POCSO Court, Thoothukudi.



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K.K.RAMAKRISHNAN,J

tta/vsg

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