



Crl.O.P.(MD)No.9883 of 2024

BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

WEB COPY

DATED : 05.07.2024

CORAM

THE HON'BLE MR.JUSTICE B.PUGALENDHI

Crl.O.P.(MD)No.9883 of 2024

Sathishkumar

... Petitioner

versus

The State rep. by
The Inspector of Police,
Nachiyarkovil Police Station,
Thanjavur District.

... Respondent

Prayer : Criminal Original Petition filed under Section 482 of the Code of Criminal Procedure, to call for the records of the order in Crl.M.P.No. 260 of 2024 in S.S.C.No.109 of 2023 on the file of the Principal Special Court for Exclusive Trial of Cases under POCSO Act, Thanjavur dated 12.06.2024 and set aside the same and consequently, direct the Principal Special Court for Exclusive Trial of cases under POCSO Act, Thanjavur, to recall the witnesses P.W.1 to P.W.3.

For Petitioner : Mr.S.Sathya Chidambaram
For Respondent : Mr.P.Kottai Chamy,
Government Advocate (Crl. side)

ORDER

The petitioner has filed an application before the trial Court, in Crl.M.P.No.260 of 2024 in Special S.C.No.109 of 2023 under Section



CrI.O.P.(MD)No.9883 of 2024

311 Cr.P.C. to recall P.W.1 to P.W.3 for further cross examination. The said application was dismissed by the trial Court by order dated 12.06.2024 and the same is under challenge in this petition.

2. The learned counsel appearing for the petitioner submits that the petitioner has failed to cross examine P.W.1 to P.W.3 with regard to the certain material documents on the date when they were subjected for cross examination and therefore, the petitioner has filed this application to recall P.W.1 to P.W.3 for the purpose of further cross examination. However, the trial Court has dismissed the application without assigning valid reasons.

3. This Court considered the submissions of the learned counsel for the petitioner and also perused the order.

4. It appears that P.W.1 to P.W.3 were examined on 02.02.2024. On the same day, they were cross examined at length. The petitioner has filed the above application before the trial Court on 11.06.2024, on the ground that due to non-availability of certain important documents,



CrI.O.P.(MD)No.9883 of 2024

petitioner has omitted to put some important questions during the cross examination of P.W.1 to P.W.3. However, the petitioner has not disclosed about the details of the documents. The petitioner has been charged for the offence under Section 366 IPC and Section 9(m) r/w. Section 10 of POCSO Act. Therefore, the trial Court, by referring the provisions under Section 33(5) of POCSO ACT, has dismissed the application.

5. P.W.1 is the victim child, P.W.2 is the father of the victim child and P.W.3 is the mother of the victim child. Section 33(5) of the POCSO Act states that a child shall not be called repeatedly to testify in the Court unnecessarily. Therefore, the trial Court has dismissed the said application and there is no reason to interfere with the impugned order.

6. Accordingly, this Criminal Original Petition is dismissed.

05.07.2024

Index : Yes / No.
Internet: Yes / No.
NCC : Yes/No.
ogy



WEB COPY



CrI.O.P.(MD)No.9883 of 2024

B.PUGALENDHI, J.

ogy

To

1. The Principal Special Court for
Exclusive Trial of Cases under POCSO Act,
Thanjavur.
2. The Inspector of Police,
Nachiyarkovil Police Station,
Thanjavur District.

CrI.O.P.(MD)No.9883 of 2024

05.07.2024