



CrI.O.P.(MD)No.12945 of 2024

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BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

DATED: 08.08.2024

CORAM

THE HON'BLE MR.JUSTICE K.MURALI SHANKAR

CrI.O.P.(MD)No.12945 of 2024

Suresh

: Petitioner

Vs.

State rep.by
The Inspector of Police,
Vilampatti Police Station,
Dindigul District.
Crime No.74 of 2022

: Respondent

PRAYER : Criminal Original Petition filed under Section 482 of Criminal Procedure Code, to call for the records pertaining to the order, dated 28.05.2024 passed in CrI.M.P.No.773 of 2024 in Spl.S.C.No.169 of 2023 on the file of the Special Court for Exclusive Trial of POCSO Act Cases, Dindigul and set aside the same in so far as the dismissal of the petition filed under Section 311 of Cr.P.C against the P.W.9, P.W.13, P.W.14, P.W.17 and P.W.18 concerned.

For Petitioner : Mr.A.Ajith Prakash

For Respondent : Mr.P.Kottai Chamy,
Government Advocate (Criminal Side)



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ORDER

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This Criminal Original Petition has been filed, invoking Section 482 Cr.P.C., seeking orders, to set aside the the order, dated 28.05.2024 passed in CrI.M.P.No.773 of 2024 in Spl.S.C.No.169 of 2023 on the file of the Special Court for Exclusive Trial of POCSO Act Cases, Dindigul and permitting the petitioner to cross examine the witness P.W.9, P.W.13, P.W.14, P.W.17 and P.W.18 on payment of the witness batta within three days.

2. The learned counsel for the petitioner would submit that he was not in a position to pay batta as per the direction of the trial Court and when the petitioner has expressed his willingness to pay the amount, the same was not entertained by the trial Court and now the case is pending for arguments.

3. The learned Government Advocate (CrI.Side) appearing for the State would submit that the petitioner has been dragging on the matter for the past two years and despite granting of sufficient opportunities, he has not utilized the same.



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4. It is evident from the records that the petitioner has filed an application under Section 311 of Cr.P.C., seeking orders to recall P.W.8 to P.W.18 for the purpose of cross examination in CrI.M.P.No.773 of 2024 and the learned Sessions Judge has passed an order, dated 28.05.2024 partly allowing the petition and permitted to recall P.W.9, P.W.13, P.W.14, P.W.17 and P.W.18 for the purpose of cross examination on condition that the petitioner has to deposit the witness batta within three days and that since the petitioner has not deposited the witness batta as directed, the petition was ordered to be dismissed. Challenging the said order, the present petition came to be filed.

5. The learned counsel for the petitioner would submit that the petitioner side has not at all cross examined the said witnesses and their non cross examination would be fatal to the petitioner's defence and that he is ready and willing to deposit the amount as directed by the trial Court.

6. Considering the above facts and circumstances and taking note of the submission made by the learned counsel on either sides, this Court is of the view that the petitioner should be given one more opportunity to cross



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examine the said witnesses, but on conditions. The petitioner shall deposit a sum of **Rs.5,000/- (Rupees Five Thousand Only)** to the Advocates Welfare Fund [Indian Bank High Court Branch, Madurai, Current Account No.7087208431, IFSC IDIBI000H040] attached to this Bench and to deposit the witness batta before the concerned Court **within three days from today** and on production of proof for depositing Rs.5,000/- to the Advocates Welfare Fund and on depositing the witness batta, the learned trial Judge is directed to issue summons to the said witness for the purpose of cross examination. The petitioner is also directed to cross examine the witnesses, whenever the witnesses are produced before the Court and in case of the petitioner's failure to cross examine the witnesses, then he will forfeit his right to cross examine the witnesses.

7. With the above directions, this Criminal Original Petition stands disposed of.

08.08.2024

NCC :Yes/No
Index :Yes / No
Internet :Yes / No
das

Note : Issue order copy on **08.08.2024**.



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To

- 1.The Special Judge for Exclusive Trial of POCSO Act Cases,
Dindigul.
- 2.The Inspector of Police,
Vilampatti Police Station,
Dindigul District.
- 3.The Additional Public Prosecutor,
Madurai Bench of Madras High Court,
Madurai.



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K.MURALI SHANKAR,J.

das

Order made in
CrI.O.P.(MD)No.12945 of 2024

Dated: 08.08.2024