



Crl.O.P.(MD)No.15274 of 2024

BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

DATED: 11.09.2024

CORAM

THE HON'BLE MR.JUSTICE K.MURALI SHANKAR

Crl.O.P.(MD)No.15274 of 2024

Yuvaraja @ Yuvaraj

... Petitioner

Vs.

The Inspector of Police,
All Women Police Station,
Ottanchathiram,
Dindigul District.
(Crime No.24 of 2022)

... Respondent

PRAYER : Criminal Original Petition filed under Section 528 of BNSS, to call for the records pertaining to impugned docket order dated 23.08.2024 made in Spl.S.C.No.304 of 2023 and set aside the same and consequently permit the petitioner to recall P.W.4 and P.W.5 on payment of conditional amount stated in order dated 20.03.2024 in Cr.M.P.No.296 of 2024 on the file of the Special Court for POCSO Act Cases, Dindigul.

For Petitioner : Mr.A.Aruljenifer

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



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ORDER

The Criminal Original Petition has been filed invoking Section 528 B.N.S.S. challenging the docket order passed in Spl.S.C.No.304 of 2023 dated 14.08.2024 closing the examination of P.W.4 and P.W.5 on the ground that the petitioner has not complied with the conditions imposed in Crl.M.P.No.296 of 2024 dated 20.03.2024.

2. It is evident from the records that the petitioner/sole accused has filed an application under Section 311 Cr.P.C. to recall P.W.4 and P.W.5 for the purpose of cross-examination and the learned Sessions Judge, after enquiry, has passed a conditional order dated 20.03.2024 directing the petitioner to pay Rs.5,000/- to P.W.4 and Rs.1,000/- to P.W.5 towards batta.

3. The learned counsel appearing for the petitioner would submit that the petitioner is a JCB operator and he was not in a position to pay the amount as directed by the Court. He would further submit that the petitioner is now ready to pay the amount within the time stipulated by this Court.



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4. The learned Government Advocate (Criminal Side) appearing for the respondent would submit that now the case stands posted to 23.09.2024 and the learned Sessions Judge has issued summons to the witnesses L.W.6, L.W.7 and L.W.10 to L.W.15.

5. Considering the facts and circumstances of the case and also the fact that since the petitioner has not paid witness batta, examination of the said witnesses was ordered to be closed by the trial Court, this Court is of the view that the petitioner should be given one more opportunity to comply with the order dated 20.03.2024. But at the same time, this Court is of the further view that the petitioner/accused, should cross examine the witnesses on the day, when the witnesses are produced before the Court and if for any reason, the petitioner fails to cross examine the said witnesses on that particular day, then he will forfeit his rights to cross examine them.

6. In the result, the Criminal Original Petition is allowed and the impugned docket order, dated 14.08.2024 in Spl.S.C.No.304 of 2023 on the file of the Special Court for POCSO Act Cases, Dindigul, is set aside.



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The petitioner is directed to deposit **Rs.5,000/- (Rupees Five Thousand only)** to the Madurai Bench of Madras High Court Advocates Welfare Fund [Indian Bank High Court Branch, Madurai, Current Account No. 7087208431, IFSC IDIBI000H040] and **Rs.6,000/- (Rupees Six Thousand only)** being the patta for witnesses P.W.4 and P.W.5 before the concerned Court within a period of three days from today and on further condition that the petitioner side should cross examine the witnesses whenever the witnesses are produced before the Court and in case of the petitioner's failure to cross examine the particular witnesses, then he will forfeit his rights to cross examine the witnesses. The trial Court is directed to summon the said witnesses for the purpose of cross examination and complete the examination of the said witnesses within one month from the date of receipt of copy of this order.

11.09.2024

NCC : Yes / No
Index : Yes / No
Internet : Yes / No
csm

Note : Issue order copy today (11.09.2024)



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To

- 1.The Special Court for POCSO Act Cases,
Dindigul.
- 2.The Inspector of Police,
All Women Police Station,
Ottanchathiram,
Dindigul District.
- 3.The Additional Public Prosecutor,
Madurai Bench of Madras High Court,
Madurai.



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K.MURALI SHANKAR,J.

csn

Order made in
Crl.O.P.(MD)No.15274 of 2024

Dated: 11.09.2024