



CrI.O.P(MD).No.19113 of 2024

BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

WEB COPY

DATED: 06.11.2024

CORAM:

THE HONOURABLE **MR.JUSTICE M.NIRMAL KUMAR**

CrI.O.P(MD).No.19113 of 2024

and

CrI.M.P(MD) No.11803 of 2024

Ramesh Kannan

...Petitioner

Vs

The Inspector of Police
All Women Police Station
Aruppukottai
(Crime No.10 of 2023)

...Respondents

PRAYER: Criminal Original Petition filed under Section 482 of the Code of Criminal Procedure, praying this Court to set aside the order dated 24.09.2024 passed in Cr.M.P.No.78 of 2024 in Spl.SC.No.64 of 2023 on the file of the Fast Track Mahila Court, Srivilliputhur and direct the Fast Track Mahila Court, Srivilliputhur to recall the P.W.1 and P.W.2 for further cross examination in Spl.S.C. No.64 of 2023 on the file of the Fast Track Mahila Court, Srivilliputhur by allowing this Criminal Original Petition.

For Petitioner

: Mr.G.Dharmaraj

For Respondent

: Mr.A.Thiruvadikumar
Additional Public Prosecutor



Cr.O.P(MD).No.19113 of 2024

ORDER

WEB COPY This Criminal Original Petition has been filed to set aside the order dated 24.09.2024 passed in Cr.M.P.No.78 of 2024 in Spl.SC.No.64 of 2023 on the file of the Fast Track Mahila Court, Srivilliputhur and direct the Fast Track Mahila Court, Srivilliputhur to recall the P.W.1 and P.W.2 for re-cross examination in Spl.S.C. No.64 of 2023 on the file of the Fast Track Mahila Court, Srivilliputhur.

2. The contention of the petitioner is that the victim girl has now attained majority. The victim girl was in love with the petitioner. According to P.W. 1/mother of the victim she was informed by her neighbor seeing the victim and the petitioner going in a two wheeler together and thereafter a complaint was lodged and the petitioner has been facing prosecution. The petitioner is working in some factory where the P.W.1 was also working and there was some dispute in the work place which has magnified and the petitioner has been falsely implicated in this case. This fact has not been put to witnesses P.W.1 and P.W.2 when they were cross examined earlier. The trial Court has not considered those aspects and had dismissed the recall petition. Hence the petition.



CrI.O.P(MD).No.19113 of 2024

3. The learned Additional Public Prosecutor submitted that P.W.1/mother of the victim had categorically stated that she enquired her daughter P.W.2 about the relationship with the petitioner. P.W.2/victim informed that the petitioner had promised to marry her and taken her to various places and committed penetrative sexual assault. The victim is a minor which has been proved by records. Further P.W.2/victim in her evidence has clearly stated that the petitioner has taken her to various places and had committed penetrative sexual assault on various occasions. He would further submit that the contention of the petitioner that the victim had forced the petitioner to join her cannot be considered for a simple reason that the petitioner is already a married man having two children. There is a age difference of more than 10 years. In such circumstances the petitioner's claim of love affair and voluntary relationship is not acceptable. Further referring to Section 33(5) of the POCSO Act where there is a specific bar for calling victim often to the Court would amount to harassment, hence prayed for dismissal of the petition.

4. Heard both sides and perused the materials available on record.

5. In this case, it is seen that the petitioner had already cross examined P.W.1/mother of the victim and P.W.2/victim. Though the petitioner request



Cr.O.P(MD).No.19113 of 2024

some important aspects have to be put across the witnesses, no materials what so ever to substantiate his claim has been produced by him either before the trial Court or before this Court. In the event of non production of any materials showing that he is prejudiced recalling of witnesses more so in the case of POCSO Act would not be proper. Further, the case is posted for defence witness. If at all the petitioner wants to give an explanation, it is for him to get into the box and give his explanation or by examining any other witness. For that reason this petition cannot be allowed.

6. In view of the same, the Criminal Original Petition stands dismissed. Consequently connected miscellaneous petition is closed.

06.11.2024

NCC : Yes/No
Internet : Yes/No
Index : Yes/No
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To

1. The Fast Track Mahila Court, Srivilliputhur
2. The Inspector of Police
All Women Police Station
Aruppukottai
3. The Additional Public Prosecutor,
Madurai Bench of Madras High Court,
Madurai.



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CrI.O.P(MD).No.19113 of 2024

M.NIRMAL KUMAR,J.

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CrI.O.P(MD).No.19113 of 2024

06.11.2024