



Crl.O.P.(MD)No.21552 of 2024

BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

DATED: 09.12.2024

CORAM

THE HON'BLE MR.JUSTICE M.NIRMAL KUMAR

Crl.O.P.(MD)No.21552 of 2024

and

Crl.M.P.(MD)No.13351 of 2024

Sureshkumar

... Petitioner

Vs.

The Inspector of Police,
Vadamadurai All Women Police Station,
Vadamadurai,
Dindigul District.
(Crime No.11 of 2023)

... Respondent

PRAYER : Criminal Original Petition filed under Section 528 of BNSS, to set aside the order dated 19.10.2024 passed by the learned Sessions Judge, Special Court for Exclusive Trial of Cases under POCSO Act, Dindigul, in Crl.M.P.No.1553 of 2024 in Spl.SC.No.389 of 2023 and direct the learned Court of the Sessions Judge, Special Court for Exclusive Trial of Cases under POCSO Act, Dindigul, to restore the application in accordance with law.



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For Petitioner : Mr.S.Sarvagan Prabhu

For Respondents : Mr.A.Thiruvadi Kumar
Additional Public Prosecutor

ORDER

This Criminal Original Petition has been filed to set aside the order dated 19.10.2024 passed by the learned Sessions Judge, Special Court for Exclusive Trial of Cases under POCSO Act, Dindigul, in Crl.M.P.No.1553 of 2024 in Spl.SC.No.389 of 2023 and to direct the learned Sessions Judge, Special Court for Exclusive Trial of Cases under POCSO Act, Dindigul, to restore the application in accordance with law.

2. The contention of the petitioner is that the petitioner/A-2 has filed petition in Crl.M.P.No.1553 of 2024 under Section 311 of Cr.P.C., and the same was dismissed by the trial Court by order dated 19.10.2024. Further he submitted that in this case, a case has been filed against two persons and the petitioner is A-2. During the cross-examination, P.W.2 admits that one more person was there in the scene of occurrence and the third person had only removed the blind folding of the victim girl. When she is very categorical that the third person was involved in the offence, the



respondent police for the reasons had not found the third person and projected the case as against the petitioner and the other accused and the petitioner has been falsely implicated in this case. He further submits that the victim girl had admitted that the petitioner had not behaved improperly with her. In such circumstances, the alleged kidnapping was done by the third person and not by the petitioner.

3. The learned Additional Public Prosecutor appearing for the respondent would submit that the petitioner earlier failed to cross-examine the witnesses and thereafter, he had filed a 311 petition in Crl.MP.No. 790 of 2024 on 13.06.2024 and the trial Court had permitted the petitioner to re-call P.W.1 and P.W.2, despite being bar under Section 33(5) of POCSO Act. Despite the same, the petition was allowed and P.W.1 , P.W.2 and P.W.3 were cross-examined in detail. The victim girl had now given a version including the third person. For that reason, the witness cannot be re-called again and as per Section 33 (5) of POCSO Act, the victim cannot be again and again called for cross-examination which amount to harassment which is barred. He further submitted that the trial Court had rightly considered the same and dismissed the petition.



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4. In view of the same, this Court is of the considered opinion that the reason given by the trial Court seems to be proper. Hence, this Court is not inclined to entertain this petition.

5. Accordingly, this Criminal Original Petition stands dismissed. Consequently, connected miscellaneous petition is closed.

NCC : Yes/No
Index : Yes / No
Internet : Yes / No
jbr

09.12.2024

To

1. The Inspector of Police,
Vadamadurai All Women Police Station,
Vadamadurai,
Dindigul District.
2. The Additional Public Prosecutor,
Madurai Bench of Madras High Court,
Madurai.



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M.NIRMAL KUMAR,J.

jbr

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