



Crl.O.P.(MD)No.22686 of 2023

BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

DATED: 29.11.2024

CORAM

THE HON'BLE MR.JUSTICE N.ANAND VENKATESH

Crl.O.P.(MD) No.22686 of 2023
and Crl.M.P.(MD) No.17729 of 2023

Muthu Kumar

... Petitioner

Vs.

The Inspector of Police,
All Women Police Station,
Ramanathapuram,
Ramanathapuram District.
Crime No.18 of 2018

... Respondent

PRAYER : Criminal Original Petition filed under Section 482 of Criminal Procedure Code, to call for the entire records in relating to the impugned order dated 27.09.2023 made in Crl.MP.No.334 of 2023 in Spl.SC.No.30/2019 on the file of the learned Fast Track Mahila Court, Ramanathapuram and to set aside the same.

For Petitioner : Mr.M.S.Jeyakarthik

For Respondent : Mr.B.Thanga Aravindh
Government Advocate (Crl. Side)



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ORDER

This petition has been filed challenging the docket order passed by the learned Sessions Judge, Fast Track Mahila Court, Ramanathapuram, dated 27.09.2023, dismissing the application filed by the petitioner under Section 311 of Cr.P.C. to recall P.W.1 for cross examination, for default.

2.Heard the learned counsel for the petitioner and the learned Government Advocate appearing on behalf of the respondent.

3.The petitioner filed an application to recall P.W.1 for further cross examination in CrI.MP.No.334 of 2023. The petitioner is facing trial for offence under the POCSO Act. This petition was allowed by the Court below by order dated 25.04.2023 and on condition to pay a sum of Rs.1000/- as cost to P.W.1 and to pay the batta. When the matter came up for hearing on 27.09.2023, there was no representation on the side of the petitioner and P.W.1 was present before the Court. The Court below dismissed the petition for default. Aggrieved by the same, this



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petition has been filed before this Court.

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4.The learned Government Advocate, on instructions, submitted that the examination of all the witnesses is complete and the case is posted on 25.12.2024 for questioning under Section 313(1)(b) of Cr.P.C. The learned Government further submitted that non-bailable warrant was issued against the petitioner since he did not appear before the Court and he was secured and he is now in judicial custody.

5.Taking into consideration the facts and circumstances and considering the defense taken by the petitioner to the effect that there was a love affair between the petitioner and P.W.1 and also considering the fact that the petition was dismissed for default only due to the fault of the counsel in not appearing before the Court to cross examine P.W.1, this Court is inclined to give one last opportunity to the petitioner.

6.In view of the above, the docket order passed by the Court below dated 27.09.2023 is hereby set aside. The Court below shall recall P.W.1 for further cross examination. On the date of the appearance of



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P.W.1, the petitioner shall pay cost of Rs.3500/- to P.W.1. On the date of appearance, the petitioner has to complete the cross examination of P.W.

1. If for any reason, the petitioner fails to cross examine P.W.1 on the date of appearance, the petitioner will forfeit his right to recall P.W.1 in future.

7.In the result, this Criminal Original petition is allowed with a direction to the learned Sessions Judge, Fast Track Mahila Court, Ramanathapuram, to dispose of Spl.S.C.No.30 of 2019 within a period of three months from the date of receipt of a copy of this order. Consequently, connected miscellaneous petition is closed.

29.11.2024

NCC	:	Yes / No
Index	:	Yes / No
Internet	:	Yes / No
PKN		



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- 1.The Sessions Judge, Fast Track Mahila Court,
Ramanathapuram.
- 2.The Inspector of Police,
All Women Police Station,
Ramanathapuram,
Ramanathapuram District.
- 3.The Additional Public Prosecutor
Madurai Bench of Madras High Court.



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N.ANAND VENKATESH,J.

PKN

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Dated: 29.11.2024