



Crl.O.P.(MD)No.4600 of 2025

BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

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DATED: 07.04.2025

CORAM

THE HON'BLE MR.JUSTICE P.DHANABAL

Crl.O.P.(MD)No.4600 of 2025
and
Crl.M.P(MD) No.3293 of 2025

Sivakumar

.. Petitioner

Vs.

The Inspector of Police
Vadamadurai All Women Police Station
Dindigul District

.. Respondent

PRAYER : Criminal Original Petition filed under Section 528 of BNSS, to call for the records pertaining to the order passed by the Special Court of Exclusive trial of cases under POCSO Act, Dindigul in Cr.M.P.No. 1861 of 2024 dated 12.12.2024 in S.C.No.90 of 2023 and set aside the same.

For Petitioner : Mr.P.T.Ramesh Raja
for Mr.A.R.Kannappan

For Respondent : Mr.M.Vaikkam Karunanithi
Government Advocate(Crl.Side)



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ORDER

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This Criminal Original Petition has been filed to set aside the order passed in Cr.M.P.No.1861 of 2024 dated 12.12.2024 in S.C.No.90 of 2023 by the Special Court of Exclusive trial of cases under POCSO Act, Dindigul .

2. The learned counsel appearing for the petitioner would submit that the petitioner is the first accused in this case. In this case the prosecution side witnesses were examined on 14.10.2024, however P.W. 20 could not be cross examined due to the ill health. The non cross examination of witness is neither wilful nor wanton. Thereafter he filed a petition to recall the witnesses but the trial Court dismissed the petition stating that the petition is filed with malafide intention to prolong the disposal of the case and A1 is adopting dilatorily tactics. Therefore in order to give a fair chance to the petitioner and to meet the ends of justice the witness has to be recalled for cross examination and hence the order passed by the trial Court is liable to be set aside.

3. The learned Government Advocate(Crl.Side) appearing for the respondent would submit that P.W. 20 was examined in chief but was not



cross examined. Though sufficient opportunity was given to the petitioner he failed to avail those opportunities and the reasons stated by the petitioner is not acceptable and trial Court has passed a well reasoned order and thereby the petition is liable to be dismissed.

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

5. According to the petitioner,P.W.20 was examined in chief but was not cross examined. The reason for non cross examination is that due his Counsel was not well. Therefore the petitioner has filed a petition before the trial Court and the same was dismissed by the trial court by observing that the petition is filed with malafide intention to prolong the disposal of the case and A1 is adopting dilatorily tactics. However the trial Court failed to consider that this is the first petition and the witness was not cross examined. Inorder to give fair chance to the petitioner the trial Court ought to have allowed the petition since the prosecution witness was not cross examined. Taking into consideration the gravity of offence and inorder to give one more chance to the petitioner and to meet the ends of justice this Court is inclined to allow the petition. Therefore the order passed by the trial Court is liable to be set aside.



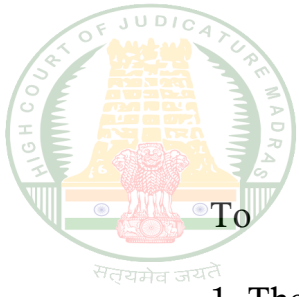
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6. In view of the same, the Criminal Original Petition stands allowed and the order passed by the Special Court of Exclusive trial of cases under POCSO Act, Dindigul in Cr.M.P.No.1861 of 2024 dated 12.12.2024 in S.C.No.90 of 2023 is set aside. The petitioner shall deposit a sum of Rs. 1000/- as costs before the trial Court within a period of 15 days from the date of receipt of a copy this order. After deposit of the amount the trial Court is directed to issue summons to the petitioner by fixing the date for cross examination of witnesses. On that date the petitioner has to cross examine the witnesses without any further delay. Consequently connected miscellaneous petition stands closed.

07.04.2025

NCC : Yes/No
Index : Yes / No
Internet : Yes / No
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To
1. The Special Court of Exclusive trial of cases under
POCSO Act, Dindigul

2. The Inspector of Police
Vadamadurai All Women Police Station
Dindigul District

3. The Additional Public Prosecutor,
Madurai Bench of Madras High Court,
Madurai.



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P.DHANABAL,J.

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