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IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED :30.12.2019

CORAM

THE HON'BLE MR.JUSTICE G.R.SWAMINATHAN

Crl.O.P.No.34904 of 2019

John @ Karthikeyan

...Petitioner

Vs

State of rep.by its the Inspector of Police,  
Adhiyamankottai Police Station,  
Dharmapuri District.

...Respondent

Prayer:- Criminal Original Petition filed under Section 482 of Cr.P.C to call for the records pertaining to the Crl.M.P.No.504/2019 in Spl.S.C.No.41/2017 on the file of Sessions Judge, Fast Track Mahila Court, Dharmapuri and set aside the same.

For Petitioner : Mr.M.Selvam

For Respondents : Mr.T.Shunmugarajeswaran  
Government Advocate  
(Criminal side)

O R D E R

Heard the submission of the learned counsel appearing on either side.

2. The petitioner is facing trial in Special S.C.No.41/2017, on the file of the Sessions Judge Fast Track, Mahila Court, Dharmapuri for the offences under Sections 363, 366 IPC and Sections 6 & 5(1) POCSO Act 2012. The petitioner had not cross examined the prosecution witnesses after their chief examination. The petitioner had filed Crl.M.P.No.504 of 2019 for recalling them. The Court below has allowed the Recall Petition, as regard P.W.s. 2 to 5, on payment of cost. However, the Recall Petition in respect of P.Ws.1 and 6 was dismissed. P.W.1 is the mother of the victim and P.W.6 is the victim herself.

3. The learned counsel appearing for the petitioner points out that P.W.6 / victim is presently aged about 20 years.

4. If the witness is a child, she cannot be harrassed and vexed by being repeatedly summoned to the Court. In this case, the victim is presently aged about 20 years and therefore, the



usual strict view and approach adopted in the matter of offences under POCSO Act may be departed from. Therefore, the order under challenge, to the extent it is adverse to the petitioner, is set aside and it is made clear that the petitioner will cross examine both the witnesses and it is also made clear that P.W.s 1 and 6 will be recalled for cross examination by the petitioner on the next date of hearing after 07.01.2020.

5. The Criminal Original Petition is allowed in the above terms.

Sd/-  
Deputy Registrar (C.S.)

//True Copy//

Sub Assistant Registrar

To

- 1.The Sessions Judge,  
Fast Track Mahila Court,  
Dharmapuri.
- 2.The Inspector of Police,  
Adhiyamankottai Police Station,  
Dharmapuri District.
- 3.The Public Prosecutor,  
Madras High Court.

+1 cc to M/s.M.Selvam, Advocate Sr.No. 106868

AKM/08.01.2020/2P-5C /

Cr1.O.P.No.34904 of 2019