

(2024) 04 KL CK 0044

High Court Of Kerala

Case No: Criminal Miscellaneous Petition No. 3061 Of 2024

XXXXXXXXXX

APPELLANT

Vs

State Of Kerala

RESPONDENT

Date of Decision: April 3, 2024

Acts Referred:

- Code of Criminal Procedure, 1973 - Section 482
- Protection of Children from Sexual Offences Act, 2012 - Section 33(5)

Hon'ble Judges: A. Badharudeen, J

Bench: Single Bench

Advocate: P.C.Muhammed Noushiq, K.M.Firoz, M.P.Prasanth

Final Decision: Allowed

Judgement

A. Badharudeen, J

1. The accused in S.C.No.1306/2021 on the files of the Special Court Fast Track-I, Perinthalmanna has filed this criminal miscellaneous case under

Section 482 of the Code of Criminal Procedure, 1973, challenging Annexure A2 order, whereby the prayer sought for by the petitioner to re-call PW1

to prove Ext.D6 letter, alleged to be written by PW1 along with her sister, which, in fact, tendered in evidence in connected S.C.No.1232/2021.

2. Heard the learned counsel for the petitioner and the learned Public Prosecutor.

3. The learned counsel for the petitioner argued that along with this case, S.C.No.1232/2021 also have been tried simultaneously and in

S.C.No.1232/2021 PW1 was re-called for confronting Ext.D6.

4. The learned Public Prosecutor pointed out the bar under Section 33(5) of the Protection of Children from Sexual Offences Act, which provides that

the Special Court shall ensure that the child is not called repeatedly to testify in the court, while justifying the order of the Special Judge.

5. To be on the matter in issue, two cases simultaneously tried and in one case, PW1 was re-called in relation to Ext.D6 even though the learned

Special Judge is of the opinion that no purpose will be served by re-calling and examining PW1 further in relation to Ext.D6. Since Ext.D6 marked in

evidence in the other case, the order impugned is set aside, facilitating to re-call and re-examine PW1 for the limited purpose of questioning PW1 with

regard to Ext.D6 alone and no other aspects.

Accordingly, this petition stands allowed, with direction to the Special Judge, Fast Track-I, Perinthalmanna, to re-call PW1, with opportunity to the

learned counsel for the accused to re-examine the victim, as ordered above.