

IN THE HIGH COURT OF KERALA AT ERNAKULAM

PRESENT:

THE HONOURABLE MR. JUSTICE P.UBAID

WEDNESDAY, THE 23RD DAY OF SEPTEMBER 2015/1ST ASWINA, 1937

**CrI.MC.No. 5091 of 2015 ()
CrI.M.P.No. 1599/2015 IN S.C.No.287/2013 OF THE ADDITIONAL DISTRICT AND
SESSIONS COURT, ERNAKULAM**

PETITIONER/ACCUSED:

**RAJEEV, AGED 33 YEARS
S/O. RAVEENDRAN, GEETHALAYAM
MARUTHAMOODU DESOM
PULLAPARA VILLAGE, VENJARAMOOD
THIRUVANANTHAPURAM.**

BY ADV. SRI.LAVARAJ M.G.

RESPONDENT:

**STATE OF KERALA
REPRESENTED BY THE PUBLIC PROSECUTOR
HIGH COURT OF KERALA, ERNAKULAM-682 031.**

BY PUBLIC PROSECUTOR SRI. JUSTIN JACOB

**THIS CRIMINAL MISC. CASE HAVING COME UP FOR ADMISSION ON 23-09-2015, THE
COURT ON THE SAME DAY PASSED THE FOLLOWING:**

APPENDIX

PETITIONER'S EXHIBITS

**ANNEXURE A1 : COPY OF THE EXTRACT OF CRL.MP NO.1599/2015 PRESENTED
ON 21.7.2015 TO RECALL PW1, PW19, PW28 AND PW31.**

**ANNEXURE A2 : COPY OF THE ORDER OF HON'BLE ADDL. DISTRICT AND SESSIONS
COURT DTD.31.7.2015 DISMISSING CRL.MP NO.1599/2015.**

**ANNEXURE A3 : COPY OF THE PETITION FILED BY THE PROSECUTOR DTD.31.7.2015
TO RE-OPEN THE EVIDENCE AND TO SUMMON ADDITIONAL
WITNESS.**

RESPONDENT'S EXHIBITS

NIL

TRUE COPY

P.A. TO JUDGE

SD

P. UBAID, J.

Crl.M.C.No.5091 of 2015

Dated this the 23rd day of September, 2015

O R D E R

The petitioner herein is the first accused in S.C.No.287/2013 before the learned Special Sessions Judge for the trial of offences and atrocities against Women and Children, Ernakulam. At the fag end of the trial, he filed an application before the learned trial Judge as Crl.M.P.No.1599/2015 to recall some witnesses. The learned trial Judge dismissed the said application on merits by order dated 31.07.2015. The said order is sought to be quashed under Section 482 Cr.P.C.

2. On a perusal of the impugned order, I find that the application was rightly dismissed by the learned trial Judge. The witnesses sought to be recalled are PW1, PW19, PW28 and PW31. The impugned order shows that the victim was extensively cross examined by all the counsel during trial, and so, it is not known for what purpose the witnesses are again sought to be recalled. PW19 is the doctor who examined the accused, and issued potentiality certificate. This witness was not cross examined by the defence. Later, he was recalled at the instance of the learned

Additional Prosecutor to prove another potentiality certificate. At that time also this witness was not cross examined. PW28 and PW31 are investigating officers. They were also effectively cross examined by the defence at the right stage. It appears that the petitioner brought the present application to recall the witnesses, just because he changed his lawyer at the fag end. That cannot be by itself a reason to recall the witnesses who are already cross examined extensively by the defence. I find that this petition is meritless.

In the result, this Crl.M.C. is dismissed in limine, without being admitted to files.

Sd/-

P. UBAID, JUDGE

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