

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 16.07.2015

CORAM

THE HONOURABLE MR. JUSTICE P.N.PRAKASH

CrI.O.P.No.17258 of 2015

1. Ponnurangam
2. Sankar @ Jayakumar
3. Thirupathy
4. Mageswari

...Petitioners

Vs

The Inspector of Police,
Jolarpettai Police Station,
Vellore District.

...Respondent

Criminal Original Petition filed under Section 482 Cr.P.C., seeking for a direction to the learned Judicial Magistrate No.I, Tirupattur, Vellore District, to recall PW.9 (I.O., in the above case) and permit the petitioners herein to cross-examine him in the above case in C.C.No.224 of 2008 on the file of the learned Judicial Magistrate No.I, Tirupattur, Vellore District.

For Petitioners : Mr.L.Mahendran

For Respondent : Mr.C.Emalias,
Addl. Public Prosecutor

O R D E R

These petitioners are facing prosecution in C.C.No.224 of 2008, on the file of the Judicial Magistrate No.I, Tirupattur, Vellore District, for the offences, under Sections 229, 323, 336, 506(II) IPC. Before the learned Magistrate, it seems that prosecution has examined nine witnesses in chief. It appears that one Mr.S.Kesavan, Sub-Inspector of Police, was examined in chief, as PW.9, before the trial Court, on 25.03.2014 and on that day, the petitioners/accused for the reasons, best known to them, did not cross-examine him. Thereafter, the petitioners/accused have filed C.M.P.No.2216 of 2015, for re-calling PW.9, Mr.S.Kesavan, Sub-Inspector of Police, for the purpose of cross-examination, which was dismissed on 26.05.2015, by the learned Judicial Magistrate No.1, Tirupattur, Vellore District. Challenging the same, the petitioners/accused are before this Court.

2. It seems that this case was of the year 2008 and that the

accused have managed to prolong the trial continuously, till 2015. Mr.S.Kesavan, Sub-Inspector of Police, retired from service and settled with his children, in Pune. He has also got a house in Sattuvachari, Vellore and now, it is reported that he is very sick and hospitalised.

3. Learned counsel for the petitioners/accused submitted that cross-examination of PW.9, Mr.S.Kesavan, Sub-Inspector of Police, is very much essential, for the just decision of this case.

4. Taking into consideration, the facts and circumstances of the case, this Court is of the view that in the interest of justice, one more opportunity is given to the petitioners to cross-examine PW.9, Mr.S.Kesavan, on the petitioners' paying a sum of Rs.5,000/- (Rupees five thousand only), as costs, to Mr.S.Kesavan, Retired Sub-Inspector of Police, on the day, when he comes to the Court for giving evidence, but before he gets into the witness box.

5. Accordingly, this petition is allowed and the trial Court is directed to summon PW.9, Mr.S.Kesavan, Retired Sub-Inspector of Police, having residence at Door No.17/27, G.V.Flats, Sattuvachari, Vellore-9, on the next hearing date and on that day, the petitioners shall pay a sum of Rs.5,000/- (Rupees five thousand only), as stipulated above and cross-examine him. Since this Court is monitoring this case, the trial Court is directed to send a report to this Court. At the request of Mr.L.Mahendran, learned counsel for the petitioners/accused, this Court directs the trial Court to post this case on 24.07.2015, for appearance of PW.9 and also for his cross-examination.

6. In view of the above, Registry is directed to adjourn this matter to 28.07.2015, for reporting compliance.

Sd/-

Assistant Registrar(CO)

//True Copy//

Sub Assistant Registrar

To

1. The Inspector of Police,
Jolarpettai Police Station,
Vellore District.
2. The Judicial Magistrate No.I,
Tirupattur, Vellore District.

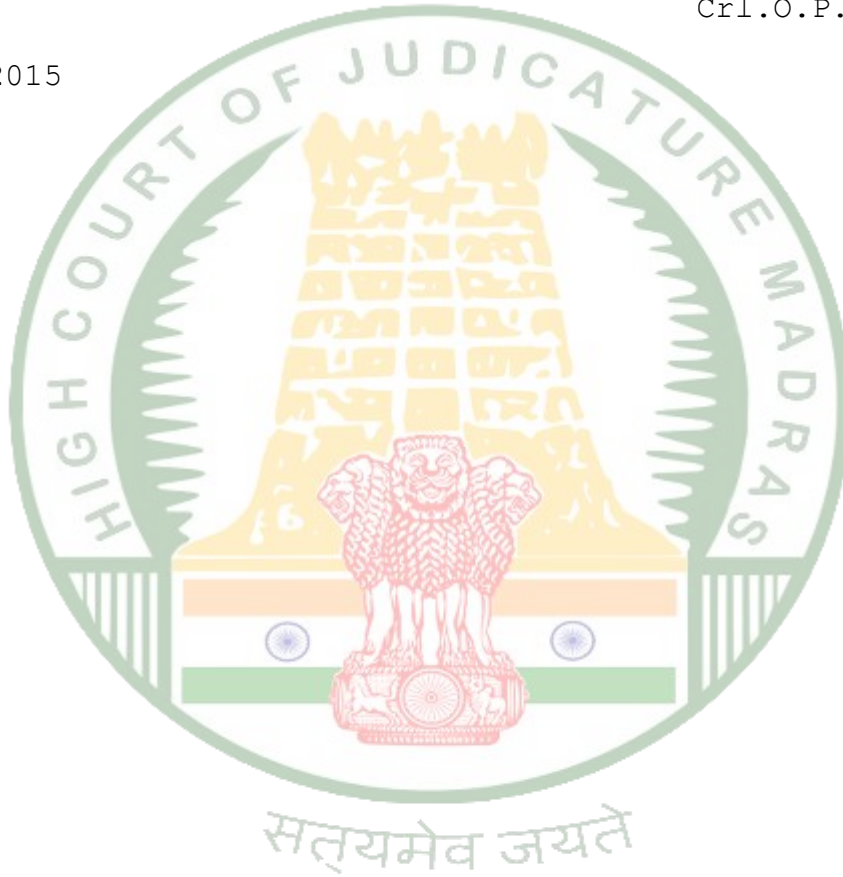
3. The Public Prosecutor,
High Court, Madras.

4. The Section Officer,
Criminal Section,
High Court,
Madras.

+1CC to Mr.L.Mahendran, Advocate SR.No. 36457

Crl.O.P.No.17258 of 2015

LRS (CO)
cp 10.08.2015



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