

IN THE HIGH COURT OF JUDICATURE AT MADRAS

Reserved on : 4-9-2015

Pronounced on : 8-9-2015

CORAM:

THE HON'BLE MR. JUSTICE P.N.PRAKASH

Criminal Original Petition No.22237 of 2015
M.P.No.1 of 2015

K. Rathnavel Murugan ... Petitioner/Accused
Vs.

The State rep.by Inspector of Police,
Gobichettipalayam Police Station,
Erode District. ... Respondent/Complainant

Criminal Original Petition filed under Section 407 of Code of Criminal Procedure with a prayer to withdraw the proceedings in S.C.No.38 of 2015 on the file of learned Sessions Judge (Fast Track Mahila Court), Erode, to any other competent Court having jurisdiction and for any other relief or reliefs that may be appropriate in the present circumstances of the case.

For Petitioner : Mr.C.E.Pratap
For Respondent : Mr.C.Emalias,
Additional Public Prosecutor

O R D E R

Heard Mr.C.E.Pratap, learned counsel appearing for the petitioner and the learned Additional Public Prosecutor for the respondent.

2. The petitioner herein is facing prosecution for an offence under Section 306 of IPC in S.C.No.38 of 2015 before the Sessions Judge, Fast Track Mahila Court, Erode.

3. This petition is filed to transfer the trial in S.C.No.38 of 2015 on the file of the Sessions Judge, Fast Track Mahila Court, Erode, to any other Court on the ground that the Presiding Officer of this Court is unnecessarily interfering when the prosecution witnesses are being cross-examined by the defence counsel. In this petition petitioner has made certain specific instances wherein the learned Judge had interfered and alerted the witness. In support of this contention, copies of the deposition of witnesses PWs.1 to 3 have been enclosed.

4. This Court carefully perused the evidence on record. It is

the case of the prosecution that the daughter of the PW-1 committed suicide, which was abetted by the accused/petitioner herein. On perusal of the depositions it is apparent that the witnesses are rustic village people, which is obvious from a bare perusal of the signatures put by them in the depositions.

5. Time and again, the Honourable Supreme Court has said that the Public Prosecutor should interview the witnesses before putting them into the witness box (See: *Hukam Singh v. State of Rajasthan*, 2000 AIR SCW 4416). That apart, the Honourable Supreme Court has stated that the trial Court should be a guardian of the witnesses and should see that they are not subjected to filibustering and intimidating cross-examination (See: *Makhan Lal Bangal v. Manas Phunia*, AIR 2001 SC 490). At the same time, the Court should also not frighten the witnesses.

6. In this case, the defence has put a long suggestion to the witnesses, which is bound to confuse any person. If the defence ask a question to the witness "Are you continuing to beat your wife even now?" and demand from the witness to say 'Yes' or 'No', the Presiding Officer cannot be a silent spectator. If the witness says no, it will mean that he was earlier beating his wife, and that, he has stopped beating now. This Court finds such sort of cross-examination in this case, and therefore the Judge cannot be faulted for coming to the rescue of the witnesses.

7. In fact, after the cross-examination of PW-3, the trial Judge has stopped the trial stating that he wants a clarification from the superior Court, whether a particular question can be put by the defence. On questions of fact, there cannot be any reference to the superior courts. The Presiding Officer should have proceeded with the trial.

8. It appears that the counsel for the defence had provoked the Judge by saying that he is not willing to conduct the trial before him. Such representations does not augur well in the administration of criminal justice.

9. In view of the above, this Court directs the trial Court to proceed with the trial further and ensure that the Public Prosecutor comes to the Court after studying the case and interviewing the witnesses, and that, he is not permitted to put any leading questions to the witnesses. That apart, whenever there is a complex question asked, the trial Judge shall break the questions into simple one and after recording the question, the answer given by the witness should be recorded, so that the defence do not complain of prejudice.

10. With the above directions, this petition is dismissed, as there is no merit to transfer the case to another Court. Connected miscellaneous petition is also dismissed.

vr

s/d-
Assistant Registrar(CS-IV)

True Copy

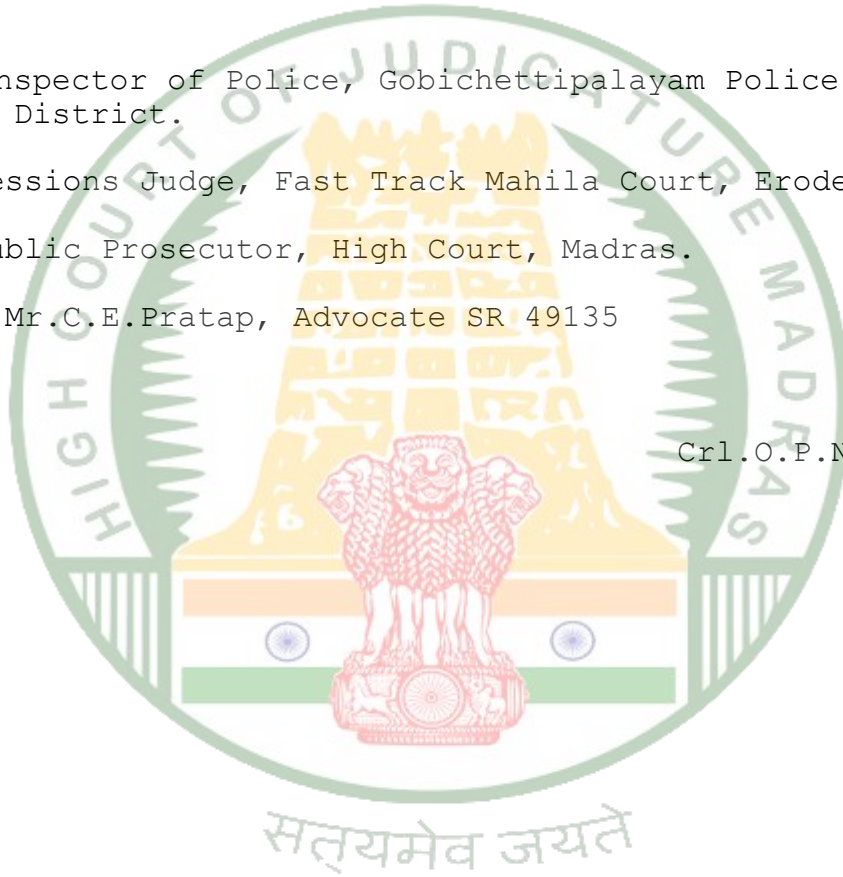
Sub-Assistant Registrar

To

1. The Inspector of Police, Gobichettipalayam Police Station, Erode District.
 2. The Sessions Judge, Fast Track Mahila Court, Erode.
 3. The Public Prosecutor, High Court, Madras.
- + 1 cc to Mr.C.E.Pratap, Advocate SR 49135

vgi(co)
prk23/9

Crl.O.P.No.22237 of 2015



WEB COPY