



BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT
DATED: 22.06.2015

CORAM:

WEB COPY

THE HONOURABLE MR.JUSTICE M.M.SUNDRESH

Crl.O.P.(MD)No. 11238 of 2015
and
M.P.(MD).No.1 of 2015

Rajendran

... Petitioner
/RESPONDENT/ACCUSED

Vs.

The Inspector of Police,
Papanasam Police Station,
Thanjavur District.
(In Crime No.105/2010)

... Respondent
/PETITIONER/COMPLAINANT

Prayer: Petition filed under Section 482 of Cr.P.C., praying to call for the records of the order dated 01.06.2015 passed by the learned II Additional District & Sessions Judge, Thanjavur in Cr.M.P.No.37 of 2015 in S.C.No.118/2012 and set aside the same as illegal.

For Petitioner : Mr.C.Arul Vadivel Alias Sekar
For Respondent : Mrs.S.Prabha
Government Advocate (crl. side)

O R D E R

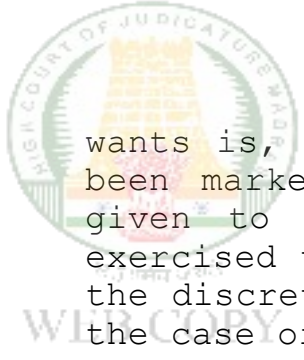
This petition has been filed to set aside the order passed by the learned II Additional District & Sessions Judge, Thanjavur in Cr.M.P.No.37 of 2015 in S.C.No.118/2012.

2. Heard the learned counsel for the petitioner and the learned Government Advocate (Crl. Side) and perused the records.

3. The petitioner is arrayed as sole accused in S.C.No.118/12, which is pending on the file of the learned II Additional District and Sessions Judge, Thanjavur, for the major offence alleged under Section 302 IPC.

4. Admittedly, 43 witnesses have been examined. Seeking to recall PW 43 a petition has been filed under Section 311 of Cr.P.C. for the purpose of producing certain material objects. Though it was opposed by the petitioner it was allowed by the court below.

5. The learned counsel for the petitioner submitted that the prosecution shall not be allowed to fill up the lacuna. This court does not find any merit in his submission. What the prosecution



wants is, it seeks to produce the material objects which have not been marked under Section 311 of CrPC. The discretion has been given to the court below. Such a discussion will have to be exercised to find out the truth. This court shall not intervene in the discretion only a pervious in the affairs which is followed in the case or not.

6. Ultimately the petitioner will have a chance to put forth cross-examine on the said witness who is recalled and challenge the material objects.

7. Accordingly, this petition shall stand dismissed. However, the petitioner is at liberty to raise all the contentions before the trial court. Consequently, connected Miscellaneous Petition is closed.

SD
ASST REGISTRAR - AE

TRUE COPY

SUB ASST REGISTRAR

PJL

To

1. The Inspector of Police,
Papanasam Police Station,
Thanjavur District.
2. The Additional Public Prosecutor,
Madurai Bench of Madras High Court,
Madurai.

1CC TO MR. C. ARUL VADIVEL SEKAR ADV SR: 32546

DM 6 7 15

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2P; 4C