

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED 09.06.2016

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THE HONOURABLE Mr.JUSTICE P.N.PRAKASH

CRL.OP.No.11403 of 2016

and CRL.MP.No.5825 of 2016

D.S.Ramachandra Reddy Petitioner/Third party

Vs

1.The State rep by
The Inspector of Police,
Thally Police Station,
Krishnagiri District.

2.R.Vidhya Respondents/Complainant &
Accused

Criminal Original Petition filed under Section 482 of Cr.P.C., praying to call for the records on the file of the learned Additional Sessions Judge, Hosur, Krishnagiri District made in Crl.M.P.No.49 of 2015 dated 17.03.2016 concerned in S.C.No.93 of 2010 and set aside the same.

For Petitioner : Mr.K.Balu

For 1st Respondent : Mr.C.Emalias,

Additional Public Prosecutor

ORDER

This petition has been filed to set aside the order dated 17.03.2016 in Crl.M.P.No.49 of 2015 in S.C.No.93 of 2010 on the file of the Additional Sessions Court, Hosur, Krishnagiri District.

2. Heard the learned counsel for the petitioner; learned Additional Public Prosecutor appearing for the 1st respondent and perused the materials placed on record.

3. It is seen that one Vidhya is facing prosecution for an offence under Section 302 IPC, in respect of an incident, which took place in the year 2009, wherein, it is alleged that

she had committed murder of one Janaki Ramamma, who is none other than the sister of the petitioner herein. It must be relevant to state that the petitioner is the father of Vidhya. While so, the police completed the investigation, filed a final report and the matter was committed to the Court of sessions. The case was numbered as S.C.No.93 of 2010 and the same is pending trial. But the trial is at fag end. The petitioner and the Public Prosecutor filed petitions under Section 311 Cr.P.C. for examining the petitioner, as a court witness on the ground that the petitioner want to reveal certain facts relating to his daughter. The trial Court, by order dated 17.03.2016, dismissed both the petitions. Challenging the order dated 17.3.2016 in Crl.M.P.No.49 of 2015 that was filed by the petitioner, the petitioner is before this Court.

4. Learned counsel for the petitioner submitted that the petitioner wants to bring to the notice of the court, certain facts which would be relevant for the just decision of the case.

5. It is true that power u/s 311 Cr.P.C. could be exercised at any time, before the culmination of the trial. However, Section 311 Cr.P.C. cannot be invoked to the prejudice of either party, as a means of witch hunting the accused. In this case, the alleged letter which is said to have been written by Vidhya was in the custody of petitioner, even according to him, from 2009 and that the petitioner is admittedly an Advocate by profession and did not disclose the same to anyone till date. The trial Court has found that the petitioner comes into the picture, only much later and his evidence is not relevant to prove either the fact in issue or any other relevant fact.

6. Therefore, this Court does not find any infirmity in the order passed by the Court below. Hence, this petition is dismissed, with a direction to the trial Court to complete the trial within a period of three months from the date of receipt of a copy of this order. Consequently, connected Miscellaneous Petition is closed.

-s/d-

Assistant Registrar (CO)

True Copy

Sub-Assistant Registrar

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To

1.The Additional Sessions Judge
Hosur, Krishnagiri District

2.The Inspector of Police,
Thally Police Station,
Krishnagiri District.

3.The Public Prosecutor,
High Court, Madras.

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