

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 23.11.2016

CORAM:

THE HON'BLE MR.JUSTICE C.T. SELVAM

Crl.R.C.No.1130 of 2016

and

Crl.M.P.No.9814 of 2016

Maruthapillai

.. Petitioner

Vs.

State of Tamil Nadu
represented by
The Inspector of Police,
Mohanur Police Station,
Mohanur, Namakkal,
(crime No.489 of 2009)

.. Respondent

Criminal Revision filed under Sections 397 and 401 Cr.P.C. to set aside the order dated 18.08.2016 made in C.M.P. (un-numbered) of 2016 in S.C.No.27 of 2015 on the file of the Sessions Judge, Fast Track Mahila Court, Namakkal.

For Petitioner : Mr.K.S.Karthik Raja

For respondent : Mr.K.Madhan

Gov. Advocate (Crl. Side)

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O R D E R

This revision arises against the order of Sessions Judge, Fast Track Mahila Court, Namakkal, passed in C.M.P.(un-numbered) of 2016 in S.C.No.27 of 2015 dated 18.08.2016.

2. Petitioner is facing prosecution for offence under Section 376 IPC in a case pending trial in S.C.No.27 of 2015 on the file of learned Sessions Judge, Fast Track Court, Namakkal.

3. While disposing of an earlier petition in Crl.O.P.No.12767 of 2016 under order dated 21.06.2016, this Court directed the trial Court to comply with the circular in R.O.C.No.1729/2010/RR dated 02.06.2010. This Court has also observed that if the petitioner adopted dilatory tactics, it was open to the trial Court to remand petitioner to custody keeping in view the judgment of the Apex Court in State of Uttarpradesh Vs Shambu Nath Sing JT 2001(4) SC 319. Thereafter, the following order has been passed by the trial Court on 18.08.2016

" Accused present. P.W.3 present sign interpreter Mr.E.Yuvaraja advocate present who is summoned as per direction of Hon'ble High Court in Crl.O.P.No.12767 of 2016 dated 21.06.2016. P.W.3 put into witness box and opportunity given for cross examination through above sign interpreter. But, no cross examination done by the defence side. It is dilatory tactics as mentioned in this above said Hon'ble High Court order and hence it is decided to remand the accused as per direction in the above said order. Accused- bail cancelled & accused remanded till 26.08.2016. Petition u/s.119 I.E. Act filed. C/c by then."

Challenging the above order, the present revision has been filed.

4. Heard learned counsel for petitioner and learned Government Advocate (Criminal side) for respondent.

5. Learned counsel for petitioner submits that court below was in error in informing C.Yuvaraj, advocate, to be the sign interpreter. As a consequence, it fell into error in finding that the petitioner was adopting dilatory tactics with the unfortunate outcome that petitioner has been remanded into custody.

6. Much harm and misfortune can be avoided by reproducing R.O.C.No. 457/RD II-4/2010 dated 26.02.2010 and R.O.C.1729/2010/RR dated 02.06.2010.
R.O.C.No. 457/RD II-4/2010 dated 26.02.2010

" As per the directions of Hon'ble High Court of Madras and as per the Minutes of the meeting chaired by the Principal Secretary to Government, Home, Prohibition and Excise Department dated 09.02.2010, the State Commissioner for disabled has been asked to issue a circular on deputing the teachers in Special Schools as sign language interpreters to assist deaf and dumb (Person with speech

disability due to being hard of hearing) victims to enable enquiries/proceedings to be held in the police station/ Court etc.

In this connection, the following instructions are issued.

1. The Police and Court authorities may approach the Head masters of Government and Government Aided Special Schools for the Deaf in Tamil Nadu (Annexure enclosed) for sign language interpreters, to assist the deaf and dumb (person with speech disability due to being hard of hearing) victims in the proceedings of the Court and during police investigations.
2. The Police and court authorities may approach the Head Masters of Government and Government Aided Special Schools for the Deaf in their Districts. If there is no school functioning in that District, they may approach the school in the neighboring Districts.
3. The Police and Court authorities should make a request to the concerned Head Masters in writing for such assistance to the deaf and dumb victims.
4. The Head masters of the Government and Government aided Special schools for the Deaf are hereby directed to depute teachers (who can interpret sign language) to assist the deaf and dumb (person with speech disability due to being hard of hearing) victims in the police investigations and proceedings in the court on the request of the Court and police authorities.
5. The Head Masters are instructed to maintain a separate register with details such as reference number, date and from whom request received and name of the teacher deputed.
6. The Head Master should ensure that the same teacher who has attended the case in the FIR stage should continue to attend till the case is disposed of in the court, even if they are transferred to other schools.
7. The Head Master should treat this work of teachers as "On duty" and the teachers are eligible for T.A and D.A as per Government norms.

R.O.C.1729/2010/RR dated 02.06.2010.

It may be seen that the letter of the City Commissioner, Chennai in R.O.C.No.1729/2010/RR speaks of provision of sign language interpreters to assist the deaf and dumb, and has also given a list of panel advocates for providing necessary assistance to them.

7. It is the contention of learned counsel for petitioner that Mr.Yuvaraj, advocate, who was present at Court on 18.08.2016, is one of the panel advocates towards providing necessary assistance to disabled victims as distinct and distinguished from affording them the services of a sign interpreter. Learned counsel also brings to notice that through further proceedings the cross examination of the victim has been completed, the same having been done with the assistance of one Latha, interpreter, whose assistance has been taken also for the purpose of the victim's examination in chief. Thus, the examination of the victim/disabled person has been completed and learned counsel informs that other witnesses are to be examined. Learned counsel prays that the order under challenge may be set aside as doing so would result in petitioner being set at liberty, which in turn would aid him in preparing his defence.

8. Considering the facts and circumstances, this Court is of the view that the order under challenge is to be set aside. Accordingly this revision is allowed. The order of Sessions Judge, Fast Track Mahila Court, Namakkal, passed in C.M.P.(un-numbered) of 2016 in S.C.No.27 of 2015 dated 18.08.2016, is set aside. As the consequence, the petitioner necessarily would have to be set at liberty. Consequently connected miscellaneous petition is closed.

Sd/-

Assistant Registrar

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Sub Assistant Registrar

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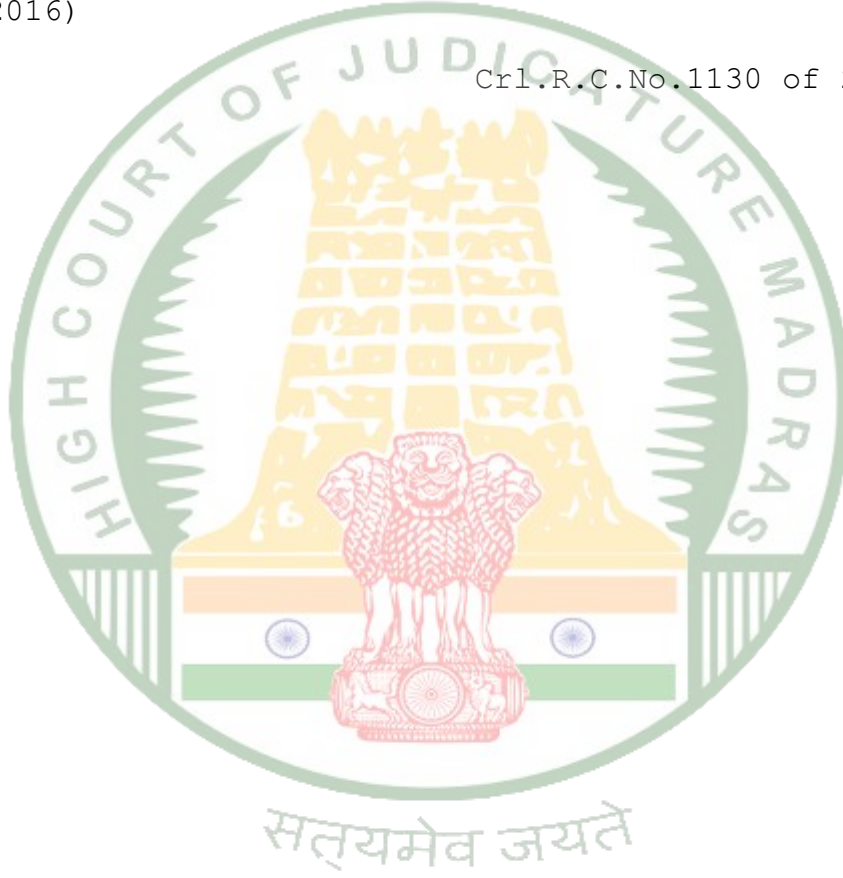
To
1 The Sessions Judge,
The Fast Track Mahila Court,
Namakkal.

2 The Inspector of Police
Mohanur Police Station,
Mohanur

+lcc to Mr.K.S. Karthik Raja, Advocate, S.R.No.68229

sm(CO)
md(02/12/2016)

CrI.R.C.No.1130 of 2016



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