

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 15.09.2016

CORAM

THE HONOURABLE MR.JUSTICE P.N.PRAKASH

Cr1.OP No.20870 of 2016

1.R.Murali @ Muralitharan
2.R.Nathiya
3.Kavery

... Petitioners

Vs

State of Tamil Nadu,
Rep. By Assistant Commissioner of Police,
P-1, Puliyanthopu,
Chennai - 600 039.

... Respondent

Prayer:- Criminal Original Petition filed under Section 482 Cr.P.C., to transfer S.C.No.150/2014 on the file of the Mahila Court, Sessions Judge, Chennai to any other competent Court in another Sessions Judge closer to Chennai sessions division.

For Petitioners : Mr.M.Senthil Viswarooban

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

O R D E R

It is seen that these petitioners are facing trial in S.C.No.150/2014 before the Mahila Court, Sessions Judge, Chennai for offences under Sections 498(A), 304(B) & (a) 306 I.P.C. During trial 19 witnesses have been examined and cross examined before the trial Court. The grievance of the petitioners is that P.W.20, the Inspector of Police who is said to have been conducted preliminary enquiry was examined in chief on 01.04.2016 and his cross examination was commenced on 10.08.2016. When the petitioners wanted to put some contradictions to him, the Public Prosecutor who is conducting trial repeatedly interjected and prevented the learned counsel for the petitioners from effectively cross examining the said witness. On this ground, the petitioners have come forward with this petition seeking transfer of the case from the file of the Mahila Court, Sessions Judge, Chennai to any other Court in Chennai.

2. In the considered opinion of this Court, this cannot be a good reason for transfer of the case especially, when 20 witnesses have been examined. The accused have a right of fair trial guaranteed under Article 21 of the Constitution of India and cross examination is an effective tool in the hands of the learned counsel to remove the chaff from grain and disinter the truth which is normally hidden deep under neath. P.W.20, the Inspector of Police is not a witness to the facts and issue. He comes to the picture only subsequently. If there are any contradictions between the evidence given by a prosecution witness vis-a-vis the police statement, it is necessary for the defence counsel to effectively put questions to prove the contradictions through P.W.20, the Inspector of Police who had recorded the police statement. The trial Court should not curtail the same and the Public Prosecutor should not curtail the right of the defence counsel to put such contradictions and suggestions.

3. Under such circumstances, this Court directs the trial Court to give sufficient opportunity to the defence counsel to cross examine P.W.20 without interruption unless, he puts questions that are totally irrelevant and objectionable.

With the above direction, this Criminal Original Petition is closed.

Sd/-
Assistant Registrar(CS II)

//True Copy//

Sub Assistant Registrar

jbm

To

1. The Assistant Commissioner of Police,
P-1, Puliyanthopu,
Chennai - 600 039.

2. The Mahila Court,
Sessions Judge,
Chennai.

3. The Public Prosecutor,
High Court, Madras.

+2cc's to M/s.D.Stephen, Advocate, S.R.No.52728

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NR(CO)

CA(29/09/2016)

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