

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 08.02.2016

CORAM :

THE HONOURABLE MS. JUSTICE R.MALA

Cr1.O.P.No.2427 of 2013 & M.P.1288 of 2016

Arunkumar

.. Petitioner

Vs.

Inspector of Police,
Gudimangalam Police Station,
Udumalpet in Cr.No.225/13

.. Respondent

Prayer: Criminal Original Petition is filed under Section 482 of Cr.P.C., to set aside the order dated 05.01.2016 passed in C.M.P.No.625 of 2015 in S.C.No.125 of 2014 on the file of the Learned Sessions Judge, Mahila Court, Tiruppur.

For Petitioner : Mr.M.Mushtaq Ahmed

For Respondent : Mr.C.Emalias
Additional Public Prosecutor

O R D E R

The petitioner has come forward with the present petition challenging the impugned order of dismissal dated 05.01.2016 in C.M.P.No.625 of 2015 in S.C.No.125 of 2014 passed by the learned Sessions Judge, Mahila Court, Tiruppur.

2. The petitioner, who is the accused in S.C.No.125 of 2014 has filed an application under section 311 of Cr.P.C. to recall P.W.10. The petitioner/accused was charge sheeted for the offences under sections 376 and 302 of IPC. When the matter was posted for defence witness, he filed an application to recall P.W.10, who is the constable who took the dead body to the hospital and after postmortem she handed over the clothes to the Investigating Officer and that have been marked as M.O.1 to M.O.4. In this regard, for clarification of certain facts, it is just and necessary to recall P.W.10 P.W.10 Rukmani and that factum was not considered by the trial Court. Hence, he prayed to set aside the impugned order of the trial Court.

3. Resisting the same, the learned Additional Public Prosecutor would submit that the present application has been

filed to recall P.W.10, who is not an investigating officer and she has not done any investigation in respect of M.O.1 to M.O.4 and she is a constable who brought the dead body to the General Hospital after postmortem and after postmortem she had handed over the clothes on the body to the Investigating Officer under a Special Report. Thereafter, the clothes have been sent to Forensic Department for chemical analysis and the report has also been received. So, there is no necessity for recalling P.W.10 and this factum was rightly considered by the trial Court.

4. Considering the rival submissions made on either side and on perusal of typed set of papers, the petitioner is the accused in S.C.No.125 of 2014 facing criminal trial for the offences punishable under sections 376 and 302 of IPC. P.W.10 is a constable who was deputed to take the body to the General Hospital for postmortem and after postmortem, she handed over the body to the relatives and belongings of the deceased person to the Investigating Officer under a Special Report, which was marked as Ex.P.7. Now, in the petition, the petitioner has not stated for what purpose he want to recall P.W.10. The material objects M.O.1 to M.O.4 have been sent for chemical analysis and the expert has spoken to the report given by the Forensic Department. Hence recalling P.W.10 is not necessary as she is not competent to speak about the material objects M.O.1 to M.O.4. She has only received the items from the doctor and handed over the same to the Investigating Officer. Thereafter, the material objects were sent for Forensic Department and the material objects were subjected to chemical examination and Serology Report has also been received. In such circumstances, there is no necessity for recalling P.W.10 and that factum was rightly considered by the trial Court. Therefore, the petition is devoid of merits and is liable to be dismissed.

5. Hence, this Criminal Original Petition is dismissed. Consequently, the connected miscellaneous petition is closed.

vrc

-s/d-

Assistant Registrar(CS-III)

True Copy

Sub-Assistant Registrar

To

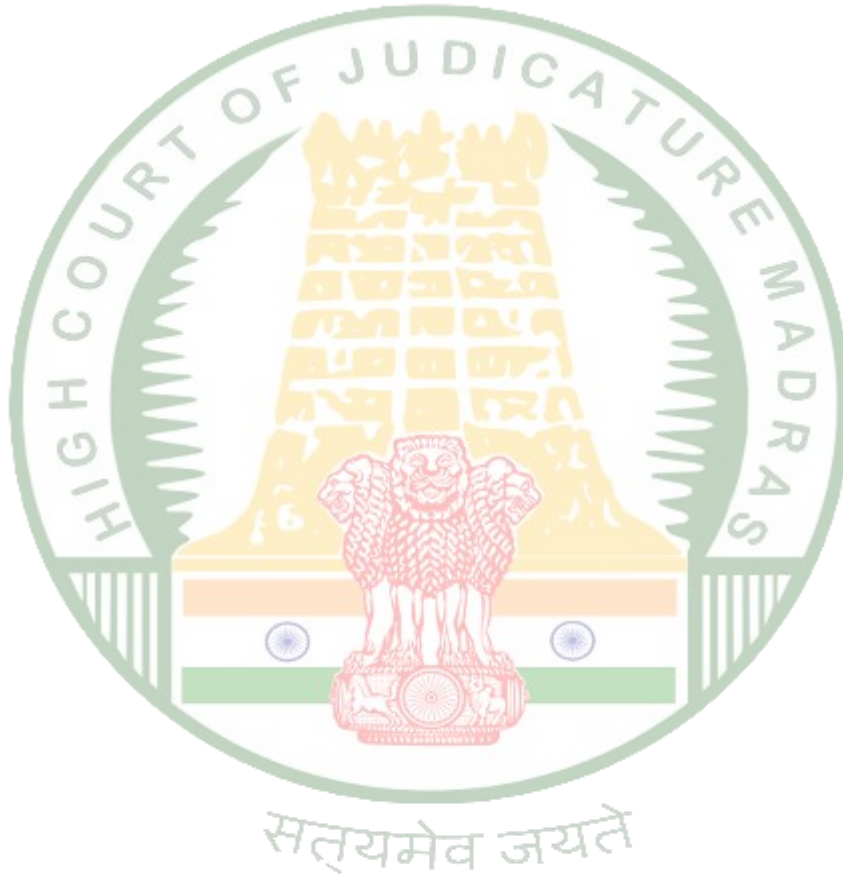
1. The Sessions Judge,
Mahila Court, Tiruppur.

2. The Inspector of Police,
Gudimangalam Police Station,
Udumalpet.

3. The Public Prosecutor
High Court, Chennai.

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CrI.O.P.No.2427 of 2016



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