

IN THE HIGH COURT OF JUDICATURE AT MADRAS
DATED : 22.12.2016
CORAM

THE HONOURABLE MR.JUSTICE R.MAHADEVAN

Cr1.O.P.No.27012 of 2016

1.Ramachandran
2.Malarkodi
3.Govindarajulu

.. Petitioners

Vs

The State rep.by
The Sub-Inspector of Police,
District Crime Branch,
Cuddalore, Cuddalore District.
(Crime No.26 of 2010)

.. Respondent

Petition filed under Section 482 of the Criminal Procedure Code, to call for the records and set aside the order made in C.M.P.No.4214 of 2016 in C.C.No.78 of 2012 dated 22.11.2016 passed by the learned District Munsif cum Judicial Magistrate, Parangipettai.

For Petitioners : Mr.G.Pugazhenthir

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

O R D E R

This Criminal Original Petition has been filed to set aside the order made in C.M.P.No.4214 of 2016 in C.C.No.78 of 2012 dated 22.11.2016 passed by the learned District Munsif cum Judicial Magistrate, Parangipettai, dismissing the application to recall the prosecution witnesses P.Ws.16 and 18 for cross-examination.

2.With regard to a property dispute, the respondent police registered a case in Crime No.26 of 2010 and after completion of investigation laid charge sheet before the learned District Munsif cum Judicial Magistrate, Parangipettai and the same was taken on file in C.C.No.78 of 2012. The case was posted for trial and the trial Court started examining the witnesses. While so, the petitioners filed an application under Section 311 of Cr.PC to recall the prosecution witnesses, viz. P.Ws.1, 19, 2,

9, 16, 17 and 18, for cross examination before the trial Court and the same was dismissed. Thereafter the petitioners approached this Court and this Court set aside the said order of dismissal and ordered to recall P.W.1 alone for cross examination, by order dated 19.08.2016 in CrI.O.P.No.17117 of 2016. Thereafter, the petitioners filed another application before the Trial Court to recall P.Ws.16 and 18 for cross examination and the same was also dismissed by order dated 22.11.2016 in C.M.P.No.4214 of 2016 on the ground that the earlier petition to recall in respect of the same witnesses was dismissed and the same was also affirmed by this Court. Challenging the said order, the present Criminal Original Petition is filed.

3.The learned counsel for the petitioner submits that the Trial Court has failed to consider the fact that the denial of cross examination of the witnesses is against the fair trial. He further submitted that the Trial Court ought to have allowed the petition filed by the petitioners on the ground that an opportunity has to be given to the accused for cross-examining the prosecution witnesses. Stating so, he prayed for allowing this Criminal Original Petition.

4.Mr.C.Emalias, learned Additional Public Prosecutor takes notice for the respondent.

5.Heard both sides.

6.It is seen from the records that originally the petition filed by the petitioners before the Trial Court to recall certain witnesses was dismissed and thereafter, this Court set aside the said order of dismissal and ordered to recall P.W.1 alone for cross examination, by order dated 19.08.2016 in CrI.O.P.No.17117 of 2016, after considering the issue in detail. In these circumstances, the petitioners filed another application to recall P.Ws.16 and 18 and the same was dismissed by the Trial Court on the ground that the earlier petition filed to recall in in respect of the same witnesses was dismissed and the same was also affirmed by this Court. When already this Court had considered the matter in detail and passed an order ordering to recall P.W.1 alone for cross examination, this Court finds no illegality or infirmity in the order passed by the

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

Sd/-
Assistant Registrar

//True Copy//

Sub Assistant Registrar

KM

To

1. The Sub-Inspector of Police,
District Crime Branch,
Cuddalore, Cuddalore District.
2. The Public Prosecutor,
Madras High Court,
Chennai-600 104.
3. The District Munsif cum Judicial Magistrate,
Parangipettai.
4. -do- Thro The Chief Judicial Magistrate,
Cuddalore.

+1cc to Mr.Pugazhenth, Advocate, S.R.No.74911

KSJ(CO)
RS(12/01/2017)

CrI.O.P.No.27012 of 2016
and
CrI.M.P.No.13627 of 2016

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