

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 26.05.2016

CORAM:

THE HON'BLE MR.JUSTICE B.GOKULDAS

CrI.O.P.No.9176 of 2016

Prabhakar

... Petitioner

Vs.

State by

The Inspector of Police,
AVS, Chennai,
(AVS Cr.No.138 of
2015)

... Respondent

Prayer: Petition filed under Section 482 of the Criminal Procedure Code to call for the records relating to the order dated 24.11.2015 passed by the learned IV Metropolitan Magistrate, Chennai in CMP No.5386 of 2015 in AVS Cr.No.138 of 2015 on the file of the respondent and set aside the same.

Petitioner : Mr.G.Magesh Kumar

For Respondent: Mr.K.Prabakar
Government Advocate(CrI.Side)

ORDER

This criminal original petition is filed to call for the records relating to the order dated 24.11.2015 passed by the learned IV Metropolitan Magistrate, Chennai in C.M.P. No.5386 of 2015 in AVS Cr.No.138 of 2015 on the file of the respondent and set aside the same.

2. Learned counsel for the petitioner would submit that without taking into consideration the material facts, particulars and documents filed before the Court below, the impugned order has been passed by the learned IV Metropolitan Magistrate, Saidapet, Chennai in C.M.P. No.5386 of 2015 dated 24.11.2015.

3. Learned counsel for the petitioner drew the attention of this Court in page No.8 of the typed set of paper, which would reveal that the Probation Officer, Prison Department, Poonamallee has stated that the petitioner is the husband of the victim. The petitioner has also produced a Xerox copy of Voter

ID Card, in which the petitioner's name is mentioned as the husband of the victim and the victim has also identified that the petitioner is her husband.

4. Heard the learned counsel for the petitioner as well as the learned Government Advocate (Criminal Side) and perused the materials placed before this Court.

5. This Court finds some force in the submission of the learned counsel for the petitioner that the petitioner is the husband of the victim. Having gone through the materials, Voter ID, furnished before this Court by the learned counsel for the petitioner, as enclosed in the typed set of papers at page No.1 and the report dated 21.11.2015 submitted by the Probationary Officer, Prison Department, Poonamallee, this Court is inclined to set aside the impugned order dated 24.11.2015 in C.M.P No.5386 of 2015 in AVS Cr.No.138 of 2015 by the 1 IV Metropolitan Magistrate, Saidapet, Chennai.

Accordingly, this Criminal Original Petition is ordered as prayed for.

Sd/-
Assistant Registrar(J)

//True Copy//

Sub Assistant Registrar

To

- 1.The Inspector of Police,
AVS Chennai.
- 2.The IV Metropolitan Magistrate,
Saidapet, Chennai.
- 3.-Do- thro Chief Metropolitan Magistrate,
Chennai.
- 4.The Public Prosecutor,
High Court, Madras.

+1cc to Mr.G.Magesh Kumar, Advocate Sr.28754

CrI.O.P.No.9176 of 2016

srg(27/05/2016)