



BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

DATED: 15.09.2016

CORAM

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THE HON'BLE MR.JUSTICE K.KALYANASUNDARAM

Cr1.O.P.(MD) No.13920 of 2016
and CRL MP(MD) .6503 of 2016

1.Najmudeen
2.Fakkir Mohamed

... Petitioners

-vs-

State rep.through
The Inspector of Police,
Anna Nagar Police Station,
Madurai.
(Crime No. 396 of 2007)

... Respondent

Prayer: Petition filed under Section 482 of Code of Criminal Procedure to call for the records pertaining to the order passed by the Learned Sessions Mahila Court, Madurai in Cr. M.P. No.778 of 2016 in S.C. No. 145 of 2009 dated 23.06.2016 and set aside the same and pass such order and other order to deem fit and proper.

For Petitioners : Mr.S.M.A.Jinnah

For Respondent : Mrs.S.Prabha
Government Advocate

O R D E R

This petition is filed to set aside the order passed by the Mahila Court, Madurai in Cr.M.P. No. 778 of 2016 in S.C. No. 145 of 2009 dated 23.06.2016.

2. Heard the learned counsel for the petitioners and the learned Government Advocate (Crl.side) appearing for the respondent.

3. Mr.S.M.A.Jinnah, learned counsel appearing for the petitioners would submit that the petitioners are facing criminal case in S.C.NO. 145 of 2009 for the alleged offence under Section 306 IPC. Though the petitioner's application to recall P.W.s 16 and 17 was allowed, due to ill-health of the counsel, they could not be cross-examined the witnesses and the petitioners are ready to pay Rs.10,000/- to one of the Orphanages and P.W.17 would be given opportunity to cross-examine the witnesses.



4. The learned Government Advocate (Crl.side) would urge that the case was registered in the year 2007 and P.Ws. 16 and 17 have given evidence in the year 2014, due to non-cooperation of the accused, the case could not be completed even after 9 years and therefore, they are not entitled for any indulgence of this Court.

5. Considering the fact that the petitioners are facing serious charges in criminal case, this Court is of the opinion that they could be given one more opportunity to defend their case.

6. In the result, this petition is allowed and the order passed by the Mahila Court in Cr.M.P. NO. 778 of 2016 in S.C. No. 145 of 2009 dated 23.06.2016 is set aside on payment of Rs.10,000/- to the Harijan Sevaksangh, 561, K.K.Nagar, Madurai. It is ordered that P.W.17 shall appear before the Mahila Court on 23.09.2016 for cross-examination in S.C.No.145 of 2009 and on that day, the accused shall complete cross-examination. Consequently, connected C.M.P.NO.6503 of 2016 is closed.

Sd/-

Assistant Registrar(RTI)

/True copy/

Sub Assistant Registrar

To:

1. The Inspector of Police,
Anna Nagar Police Station,
Madurai.
2. The Additional Public Prosecutor,
Madurai Bench of Madras High Court,
Madurai.

Cm

CSL/SS-3/SAR-W/19.09.2016: 2P/3C

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