



WEB COPY

BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

DATED : 22.08.2016

CORAM

THE HONOURABLE DR.JUSTICE S.VIMALA

Crl.O.P (MD) No.15330 of 2016

and

Crl.MP (MD) No.7232 of 2016

Angamuthu @ Mythili
S/o.Maruthai
Valandhur, Vaiganallur Post
Kulithalai Taluk, Karur District

.. Petitioner

.Vs.

The State through
Inspector of Police,
Iruppupathai Police Station
Karur, Karur District

.. Respondent

PRAYER:Criminal Original Petition has been filed under Section 482 of Cr.P.C., praying to call for the records pertaining to C.M.P.No.426/2016 in SC No.84/2015 on the file of the Assistant Sessions Judge/Chief Judicial Magistrate, Karur and set aside the order passed in CMP No.426/2016 in SC No.84/2015 dated 5th May 2016 and allow the same.

For Petitioner :Mr.RM.Sivakumar

For Respondents : Mr.A.P.Balasubramani

Government Advocate (Crl. Side)

ORDER

This petition has been filed seeking to set aside the order dated 05.05.2016 passed in CMP No.426/2016 in SC No.84/2015 on the file of the Assistant Sessions Judge/Chief Judicial Magistrate, Karur.

2. Heard the learned counsel for the petitioner and the learned Government Advocate (Crl. Side) for the respondent.

3. The learned counsel for the petitioner would submit that the application to recall P.W.5 has been dismissed by the Court below by order dated 05.05.2016 in CMP No.426/2016 in SC No.84/2015.

4. A perusal of the order would go to show that the petition to recall P.W.5 has been dismissed on the ground that the application is filed only with an intention to drag on the proceedings and no reason as to why P.W.5 should be recalled has not been disclosed in the petition.

5. The learned counsel for the petitioner would submit that reasons in the recall petition would give ample clue to the party to be cross examined and therefore, no reason was mentioned in the petition to recall.



6. When this Court wanted to disclose the reasons, the learned counsel for the petitioner adduced the reasons, on which, this Court is convinced. It is contended that the intention to recall P.W.5 is not to drag on the proceeding, but only to bring out the omitted factor in the cross examination. There are two undertakings on the part of the learned counsel for the petitioner, which would show that there is no such intention:

(i) The petitioner would cooperate for the speedy disposal of the case;

(ii) The petitioner is prepared to pay cost of expenditure for recalling P.W.5.

7. Under such circumstances, the order passed in CMP No.426/2016 in S.C.No.84/2015 is set aside and P.W.5 is directed to be recalled for the purpose of cross examination. On the date to be fixed for cross examination, the petitioner shall finish of the cross examination, without seeking further adjournments. The petitioner shall cooperate for speedy disposal of the case and he shall pay cost of Rs.500/- to P.W.5 on the date, when he is recalled for cross examination. Consequently connected Miscellaneous petition is closed.

Sd/-

Assistant Registrar(Records)

/True Copy/

Sub-Assistant Registrar

To

1.The Assistant Sessions Judge/
Chief Judicial Magistrate,
Karur.

2.The Inspector of Police,
Iruppupathai Police Station
Karur, Karur District

3.The Additional Public Prosecutor
Madurai Bench of Madras High Court,
Madurai.

+One cc to Mr.RM.Sivakumar, Advocate, SR.No.46222

RR

RL/5C/2P/SKS/RR/SARI/26/8/2016

<https://hcservices.ecourts.gov.in/hcservices/>

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