



BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

DATED: 07.10.2016

CORAM

WEB COPY

THE HONOURABLE MR. JUSTICE K.KALYANASUNDARAM

Crl.O.P(MD)No.18088 of 2016
and
Crl.M.P(MD)No.9019 of 2016

Madasamy

.. Petitioner/Petitioner/Accused

Vs.

State rep. by
The Inspector of Police,
Palayamkottai Police Station,
Tirunelveli District.

.. Respondent/Respondent/Complainant

Prayer: Criminal Original Petition is filed under Section 482 Cr.P.C. praying to set aside the order made in Cr.M.P.No.27 of 2016 in S.C.No.164 of 2013 by the Principal Assistant Sessions Judge, Tirunelveli, dated 11.02.2016.

For Petitioner : Mr.D.Venkatesh
For Respondent : Mr.K.Anbarasan,
Government Advocate(Crl. Side).

O R D E R

This petition is filed to set aside the order passed by the learned Principal Assistant Sessions Judge, Tirunelveli, in Cr.M.P.No.27 of 2016 in S.C.No.164 of 2013, dated 11.02.2016.

2.The petitioner along with one Venkat @ Venkatesan were charged for the offences under Sections 294(b), 385 and 307 IPC. The prosecution in order to establish their case, examined P.Ws.1 to 3 on 05.06.2014. The cross-examination of the witnesses was deferred by the accused and after lapse of 1½ years, the petitioner filed Cr.M.P.No.27 of 2016 to recall the witnesses for the purpose of cross-examination and the petition was dismissed. Aggrieved by the dismissal of the petition, the present Criminal Original Petition is filed.

3.Mr.D.Venkatesh, learned counsel for the petitioner would submit that the petitioner is an illiterate and working as a mason and he is facing serious charges including Section 307 IPC. The witnesses have to be cross-examined in order to give a fair trial to the accused. However, the application was dismissed on the ground that it was filed belatedly. The learned counsel for the petitioner would further submit that the petitioner will cross-examine all the



witnesses in the next hearing and he is also ready to donate Rs.10,000/- to the Harijan Sevak Sangh at Madurai.

4. Heard the learned Government Advocate (Criminal side) and also perused the records.

5. It is seen from the records that the petitioner is facing a case for the offences under Sections 294(b), 385 and 307 IPC. The application was rejected mainly on the ground that it was filed after 1½ years of examination of P.Ws.1 to 3 and by this time, the witnesses would have been gained over by the accused. Taking into consideration that the petitioner is working as a coolie and he has donated a sum of Rs.10,000/- to the Harijan Sevak Sangh, Madurai and he is ready to cross-examine all the witnesses in the next hearing, this Court is of the opinion that it would be appropriate to provide an opportunity to cross-examine the witnesses in the interest of justice.

6. In the result, this Criminal Original Petition is allowed and the order made in Cr.M.P.No.27 of 2016 in S.C.No.164 of 2013 by the learned Principal Assistant Sessions Judge, Tirunelveli, dated 11.02.2016, is set aside and the petitioner is directed to cross-examine P.Ws.1 to 3 in the next hearing date. Consequently, connected Miscellaneous Petition is closed.

Sd/-

Assistant Registrar (CS-II)

/True Copy/

Sub Assistant Registrar

To

1. The Principal Assistant Sessions Judge,
Tirunelveli.
2. The Inspector of Police,
Palayamkottai Police Station,
Tirunelveli District.
3. The Additional Public Prosecutor,
Madurai Bench of Madras High Court, Madurai.

+ 1 CC TO Mr.D.VENKATESH, ADVOCATE IN SR No. 60356

SMN

TE/GSV-PM/SAR-III : 18/10/2016 : 3P/5C (IT)

ORDER MADE IN
Cr1.O.P (MD) No.18088 of 2016
and
Cr1.M.P (MD) No.9019 of 2016
07.10.2016