



BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

DATED: 08.11.2016

WEB COPY

CORAM:

THE HONOURABLE MR. JUSTICE K.KALYANASUNDARAM

CrI.O.P. (MD) .No.21146 of 2016

1.V.Pari
2.P.Shanthi

.. Petitioners/petitioners/A1 & A2

Vs.

State through,
The Sub-Inspector of Police,
Ilayangudi Police Station,
Sivagangai District.
(In Crime No.25 of 2014)

.. Respondent/complainant/
complainant

PRAYER: Criminal Original Petition filed under Section 482 of Cr.P.C. praying to call for the records connected with the order in M.P.No.1733 of 2016 in C.C.No.69 of 2014 dated 21.07.2016 passed by the learned District Munsif cum Judicial Magistrate, Ilayangudi at Sivagangai and set aside the same as illegal.

For Petitioners : Mr.S.Malaikani

For Respondent : Mr.P.Kannithevan
Government Advocate (Criminal side)

ORDER

This petition has been filed to set aside the order in M.P.No.1733 of 2016 in C.C.No.69 of 2014, dated 21.07.2016 passed by the learned District Munsif cum Judicial Magistrate, Ilayangudi at Sivagangai.

2. Heard the learned counsel for the petitioners and the learned Government Advocate (CrI. Side) for the respondent.

3. The petitioners, who have been arrayed as A1 and A2 in C.C.No.69 of 2014, have filed M.P.No.1733 of 2016 to recall PW7 and PW8 for the purpose of cross-examination. The learned Judicial Magistrate dismissed the application observing that the petitioners did not give notice to the other side and they did not use the opportunity provided to them.



3. Mr.S.Malaikani, learned counsel for the petitioners would submit that the witnesses PW7 and PW8 were examined in chief on 01.07.2016, however, due to un-avoidable circumstances, the witnesses were not cross-examined and now they are ready to cross-examine the witnesses. A petition for seeking permission, was filed on the very next hearing date. But the petition came to be dismissed for default and in the interest of justice, this petition may be allowed.

4. The learned Government Advocate (Crl. Side) would submit that out of 17 prosecution witnesses, PW1 to PW8 were already examined and now the case is posted for examination of further witnesses on 10.11.2016.

5. Considering the facts and circumstances of the case, the order dated 21.07.2016, passed by the learned Judicial Magistrate, Ilayangudi at Sivagangai, in M.P.No.1733 of 2016 in C.C.No.69 of 2014, is hereby set aside. The petitioners are directed to cross-examine PW7 and PW8, on the same day of their appearance before the learned Judicial Magistrate, Ilayangudi at Sivagangai District.

6. With the above direction, this Criminal Original Petition is disposed of.

Sd/
Assistant Registrar(RTI)

/TRUE COPY/

Sub Assistant Registrar

To

1. The Judicial Magistrate, Ilayangudi,
Sivagangai District.
2. The Sub-Inspector of Police, Ilayangudi Police Station,
Sivagangai District.
3. The Additional Public Prosecutor,
Madurai Bench of Madras High Court, Madurai.

+1cc to M/s.S.Malaikani, Advocate, in SR No.66799.

Crl.O.P(MD)No.21146 of 2016
08.11.2016

pjl
msm/ss3/11.11.16/p2/5c