



BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

DATED: 04.02.2016

CORAM:

THE HONOURABLE MR.JUSTICE P.N.PRAKASH

Cr1.O.P. (MD) No.1492 of 2016

and

Cr1.M.P. (MD) Nos.779 & 978 of 2016

1.Ganeshpandian
2.Thangaraj

... Petitioners/A1 & A2

vs.

State rep.through
Inspector of Police
Thevarkulam P.S.
Tirunelveli District
(Crime No.181 of 2012)

... Respondent/Complainant

PRAYER: This petition is preferred under Section 482 Cr.P.C., to set aside the order of the learned Additional Mahila Court, Thirunelveli, in Cr.M.P.No.2489 of 2015, dated 29.12.2015, to recall and allow the petitioners to cross-examine P.Ws.1, 3, 4 and 6.

For Petitioners : Mr.S.Balaji
For Respondent : Mr.C.Mayil Vahana Rajendran
Additional Public Prosecutor

O R D E R

The petitioners have filed this criminal original petition, under Section 482 of the Code of Criminal Procedure, to set aside the impugned Order, dated 29.12.2015, made in Cr.M.P.No.2489 of 2015 in C.C.No.104 of 2013, by the learned Judge, Additional Mahila Court, Tirunelveli, and to allow them to further cross-examine P.Ws.1, 3, 4 and 6, in C.C.No.104 of 2013.

2. On reading of the impugned Order, dated 29.12.2015, it is seen that the petitioners have been facing trial, in C.C.No.104 of 2013, for the offence punishable under Section 506(ii) I.P.C., before the Additional Mahila Court, Tirunelveli. Further, it is seen that P.Ws.1, 3, 4 and 6 have already been examined in chief and cross-examined by the Accused. Thereafter, the petitioners / Accused 1 and 2 had filed a criminal miscellaneous petition, in Cr.M.P.No.2489 of 2015, under Section 311 of the Code of Criminal Procedure, to recall P.Ws.1, 3, 4 and 6 and to allow the petitioners to further cross-examine the said witnesses on the ground that these witnesses have to be cross-examined on certain important legal ~~issues~~ ^{points}. The learned Trial Judge, after hearing both sides, by a well considered and detailed order, has dismissed the criminal miscellaneous petition. Challenging the same, the petitioners /



Accused 1 and 2 have approached this Court by filing this criminal original petition.

3. Heard the learned counsel for the petitioners, learned Additional Public Prosecutor appearing for the respondent and perused the materials placed on record.

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4. The Hon'ble Supreme Court, in **A.G. v. Shiv Kumar Yadav**, reported in **AIR 2015 SC 3501**, has categorically held that witnesses, who had been examined and cross-examined earlier, should not be recalled for cross-examination on flimsy grounds and such practices should be deprecated.

5. In the instant case on hand, it is not a case, where the petitioners / Accused 1 and 2 have not cross-examined P.Ws.1, 3, 4 and 6 at all. Under such circumstances, this Court does not find any error or illegality in the impugned order, dated 29.12.2015, in Cr.M.P.No.2489 of 2015 in C.C.No.104 of 2013, passed by the learned Judge, Additional Mahila Court, Tirunelveli.

6. Accordingly, the criminal original petition is dismissed. Consequently, connected criminal miscellaneous petitions are closed.

Sd/
Assistant Registrar (CS-I)

/True Copy/

Sub Assistant Registrar

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To

1. The Judge,
Additional Mahila Court, Tirunelveli.

2. The Inspector of Police,
Thevarkulam P.S.
Tirunelveli District.

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

Cn/MPA/18.2.2016/4c-2p

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