

IN THE HIGH COURT OF JUDICATURE AT MADRAS

Dated: 05.01.2017

Coram

THE HONOURABLE MR. JUSTICE R.MAHADEVAN

Cr1.O.P.No.203 of 2017

1.Manikandan

2.Aruchamy

.. Petitioners/Accused

Vs.

State rep. by its
the Inspector of Police,
Taluk Police Station
Pollachi,
Coimbatore District.

.. Respondent

Prayer:- Criminal Original Petition filed under Section 482 Cr.P.C to set aside the order dated 05.12.2016 in Cr.M.P.No.7345 of 2016 in C.C.No.109 of 2015 passed by the learned Judicial Magistrate No.II, Pollachi which the prayer of the petitioners for recalling the prosecution witnesses No.PW1, PW2 for further cross examination.

For Petitioners: Mr.P.Kalimuthu

For Respondent : Mr.C.Emalias, APP

ORDER

The present Criminal Original Petition has been filed to set aside the order dated 05.12.2016 passed by the learned Judicial Magistrate No.II, Pollachi in Cr1.M.P.No.7345 of 2016 in CC No.109 of 2015.

2.It is the case of the petitioners that they were charge sheeted for the alleged offences punishable under Sections 294 (b), 323, 324 and 354 IPC on 20.03.2016 and the same was taken on file as CC No.109 of 2016 by the learned Judicial Magistrate No.II, Pollachi. Thereafter, the trial has commenced and PW1 and PW2 were examined in chief on 17.10.2016, on which date, the petitioners have not cross examined those witnesses. Subsequently, they have filed a petition in CMP.No.7345 of 2016 under Section 311 Cr.P.C seeking to cross examine PW1 and PW2. However, the said petition was dismissed by the learned Judicial

Magistrate No.II, Pollachi, by the order impugned herein dated 05.12.2016. Hence, this petition by the petitioners.

3.Learned counsel appearing for the petitioners submitted that due to non-availability of some relevant documents, the petitioners were unable to cross examine PW1 and PW2. However, without considering the same, the learned Magistrate dismissed the petition filed by them.

4.Learned Additional Public Prosecutor has no serious objection to allow this petition.

5.Considering the submissions made on either side and also taking note of the fact that there is no undue delay on the part of the petitioners in approaching the learned Magistrate with the petition under Section 311 Cr.P.C to cross examine the witnesses, this Court is inclined to allow this petition by setting aside the order impugned herein.

6. Accordingly, this Criminal Original Petition is allowed and the order dated 05.12.2016 passed by the learned Judicial Magistrate No.II, Pollachi in CrI.M.P.No.7345 of 2016 in CC No.109 of 2015 is set aside. Consequently, the petitioners are permitted to cross examine PW1 and PW2.

Sd/-
Assistant Registrar

//True Copy//

Sub Assistant Registrar

rk

To

1.Judicial Magistrate No.II, Pollachi.

2.The Inspector of Police,
Taluk Police Station
Pollachi, Coimbatore District.

3.The Public Prosecutor, High Court, Madras-104.

+1cc to Mr.P. Kalimuthu, Advocate, S.R.No.1838

cnr (CO)
md(12/02/2017)

CrI.OP.No.203 of 2017