

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 27.10.2017

CORAM:

THE HONOURABLE DR.JUSTICE G.JAYACHANDRAN

CrI.OP.No.22051 of 2017
and
CrI.M.P.No.12950 of 2017

C.Samikannu

.. Petitioner

Vs.

1.State by Deputy Superintendent of Police
CBI, SCB, Chennai.

2.Duraisamy
3.Maruthapandian
4.Rangasamy
5.Ayyasamy
6.Kandavelu
7.Jothi
8.Venkatesan
9.Mani
10.Gunasekaran
11.Dhanavel
12.Anjapuli
13.Ramadoss
14.Chinnadurai
15.Tamilmaran
16.Sellamuthu

.. Respondents

PRAYER: Criminal Original Petition filed under Section 482 Cr.P.C. to allow this petition quashing or setting aside the impugned Common Order dated 09.10.2017 in C.M.P.No.4111/2017 in S.C.No.185 of 2010 passed by the Principal District and Sessions Court, Cuddalore and direct the Hon'ble Principal and Sessions Court, Cuddalore to treat Mrs.Chinnapillai as Court witness in S.C.No.185 of 2010.

For Petitioner : Mr.G.Pavendhan
For Respondents: Mr.K.Srinivasan
Special Public Prosecutor for
CBI cases

ORDER

Challenging the dismissal of the petition filed by the petitioner, to examine his wife Chinnapillai, as Court witness by the Principal District Judge, Cuddalore, in C.M.P.No.4111/2017, the petitioner has filed this Criminal Original Petition.

2. The short facts of the case is that the son of the petitioner got married to the daughter of the accused, evading the caste boundaries. The petitioner claims that he belongs to Schedule Caste Community and the daughter of the accused belongs to Vanniyar Community. According, to the petitioner, the couple were administrated poison and they were killed the dead bodies were burnt to separately. Accordingly to the petitioner, his relatives have been arrayed as A4 and A9 and they have been falsely implicated.

3. The wife of the petitioner was examined under 164 Cr.P.C. by the learned Judicial Magistrate. The case was subsequently transferred to CBI for investigation. The CBI investigated the case and filed the final report on 14.10.2005. While so, CBI filed a petition before the learned Sessions Judge, to examine the wife of the petitioner as additional evidence. The petitioner on his turn filed a petition to examine his wife as Court witness. The learned Sessions Judge passed a common order and dismissed the petition filed by the petitioner and allowed the petition filed by CBI. Challenging the same, the present Criminal Original Petition has been filed.

4. The learned counsel for the petitioner, vehemently contended that the wife of the petitioner should be examined as Court witness, in order to bring out the truth. According to the learned counsel, in case the wife of the petitioner is examined as prosecution witness, there is every chance that she may be declared as a hostile witness and her evidence would be eschewed. Therefore, the learned counsel, tried to impress upon the Court that the wife of the petitioner should be examined as Court witness.

5. The learned Special Public Prosecutor, for CBI cases supported the order passed by the learned Sessions Judge and prayed for dismissal of this petition.

6. On a perusal of the impugned order shows that the wife of the petitioner was already examined under Section 164 Cr.P.C. The learned Judicial Magistrate, who recorded her statement, was also examined as a witness on the side of the prosecution. The apprehension raised by the petitioner that in case his wife is

examined as prosecution witness, there is a every chance that she may be treated as a hostile witness, in order to help the accused is baseless.

7. This Court is of the view that there is absolutely no need to have such apprehension. As per Section 165 Cr.P.C. the learned Judge who conducts the trial, may at any point of time, to ascertain truth, can examine the witness by putting his own questions. Moreover, as mentioned above, the learned Judicial Magistrate, who recorded the statement of the wife of the petitioner was also examined. The learned Sessions Judge, has elaborately discussed about the contention raised by the petitioner and negated the plea.

8. This Court is in full agreement with the views expressed by the learned Sessions Judge. The rights of witness is fully protected. There is no need to give any direction in this regard.

9. Accordingly, the Criminal Original Petition is disposed of. No Costs. Consequently, connected Miscellaneous Petition is also closed.

-s/d-

Assistant Registrar (CS-II)

True Copy

Sub-Assistant Registrar

dna

To

1. The Principal District and sessions Court, Cuddalore.

2. The Deputy Superintendent of Police
CBI, SCB, Chennai.

3. The Public Prosecutor,
High Court, Madras.

+2 Ccs to Mr. G. Pavendhan, Advocate sr 75970.

Cr1.OP.No.22051 of 2017

SP(24/11/2017)