

IN THE HIGH COURT OF JUDICATURE AT MADRAS

(Criminal Jurisdiction)

Tuesday, the Fourteenth day of February Two Thousand Seventeen

PRESENT

The Hon`ble Mr Justice S. NAGAMUTHU

and

The Hon`ble Mr Justice N. SESHASAYEE

CRIMINAL MISCELLANEOUS PETITION No.2191 of 2017

IN CRL A.281/2016

PRABAKARAN

[PETITIONER]

Vs

THE STATE REP BY ITS,
THE INSPECTOR OF POLICE,
TIRUPUR RURAL POLICE STATION,
TIRUPUR DISTRICT
CR.NO.910 OF 2012.

[RESPONDENT]

Petition praying that in the circumstances stated therein the High Court will be pleased to Add Evidence to examine defense Witness Sri.SIVARAJ, CHIEF REPORTER DAILY THANTHI (TAMIL NEWS PAPER) Police Line First Street, Kannapiran Colony, Valipalayam, Tirupur to Mark the Dinathanthi News Report dated 03.08.2012 and 04.08.2012, Coimbatore Edition as Defence Exhibit in Crl.A.No.281 of 2016 to secure the ends of justice.

Order : This petition coming on for orders upon perusing the petition and upon hearing the arguments of M/S.R.SANKARASUBBU, Advocate for the petitioner and of M/S P.GOVINDARAJAN, ADDITIONAL PUBLIC PROSECUTOR on behalf of the Respondent the court made the following order:-

(Order of the Court was made by S.NAGAMUTHU,J.)

The petitioner is the appellant in Crl.A.No.281 of 2016 and the accused No.5 in Sessions Case No.135 of 2016, on the file of the II Additional Sessions Judge, Tirupur. Challenging the conviction for the offence under Section 302 IPC and other offences, he has come up with the appeal. Pending appeal, he has filed the present miscellaneous petition, seeking to lead additional evidence as provided under Section 391 Cr.P.C.

2. According to the petitioner, he was in fact arrested by the police on 02.08.2012 at Thoothukudi and the said fact was reported in 'Dina Thanthi' and 'Dinakaran' daily newspapers, dated 03.08.2012. However, it is projected before this Court by the prosecution as though he was arrested on 3.8.2012. In order to prove that the

petitioner was not arrested on 3.08.2012, but he was arrested on 2.8.2016 itself, the petitioner has come up with this petition, seeking to examine one Mr.Sivaraj, Chief Reporter of 'Daily Thanthi' newspaper, as an additional defence witness and also through him, wants to mark the newspaper.

3. The said petition is opposed by the prosecution. According to the learned Additional Public Prosecutor, the petitioner was not arrested on 2.8.2012 and he was arrested only on 3.8.2012 at 10.00 a.m.

4. The learned counsel for the petitioner has brought to our notice the 'Dina Thanthi' daily newspaper, dated 3.8.2012, wherein it is reported that the petitioner and other accused were arrested even on 2.8.2012 itself. The newspaper per se is not admissible, because the contents are improved. In order to prove the fact, the petitioner wants to examine the Reporter. Whether the Reporter had the personal knowledge of the arrest or he himself had hear say information, is a matter to be seen later on. However, in our considered view, we find justification in the request of the learned counsel for the petitioner. Therefore, we are inclined to allow this petition. Accordingly, this petition is allowed.

5. The appeal shall stand posted to 21.02.2017. On that date, the petitioner shall produce the said witness for examination.

-sd/-
14/02/2017

This order, on being produced, be punctually observed and carried into execution by all concerned

TRUE COPY

Sub-Assistant Registrar (Statistics/C.S.)
High Court, Madras - 600 104.

TO

1 THE II ADDITIONAL SESSIONS
JUDGE, TIRUPPUR

2 THE PUBLIC PROSECUTOR
HIGH COURT, MADRAS.

3 THE INSPECTOR OF POLICE,
TIRUPUR RURAL POLICE STATION,
TIRUPUR DISTRICT.

4 THE CHIEF REPORTER DAILY THANTHI (TAMIL NEWS PAPER)
POLICE LINE FIRST STREET, KANNAPIRAN COLONY,
VALIPALAYAM, TIRUPUR.

C.C. to M/S.R.SANKARASUBBU Advocate on payment of necessary
charges

Order

in
CRL MP.2191/2017

in
CRL A.281/2016

Date :14/02/2017

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RVR 15/02/2017