



BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

DATED : 28.08.2017

CORAM :

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THE HONOURABLE MR.JUSTICE **S.S.SUNDAR**

CRL.OP (MD) No.10239 of 2017

and

CRL. MP (MD) Nos.6997 & 7158 of 2017

1.V.Mohan
2.M.Maheswari
3.P.Manoharan
4.M.Durai Raj
5.S.Venkata Narashimman : Petitioners/Accused

Vs.

State Rep by Inspector of Police,
Vengamedu Police Station,
Karur,
Karur District,
(Crime No.1566 of 2004) : 1st Respondent/Complainant

2.B.Shanmugam, : 2nd Respondent / De-facto complainant
(Respondent No.2 / De-facto complainant, impleaded, by order of
this Court dated 28.08.2017)

PRAYER: Criminal Original Petition is filed under Section 482 of the Criminal Procedure Code, to call for the records pertaining to the order passed by the Judicial Magistrate No.1, Karur in Cr.M.P.No.2546 of 2017 dated 06.06.2017 in C.C.No.120 of 2009 and set aside the same.

For Petitioners : Mr.T.Lajapathi Roy
For R1 : Mr.K.Anbarasan,
Government Advocate(Crl. Side).

For R2 : Mr.Veerakathiravan
Senior Counsel for
Mr.C.Jeganathan

O R D E R

This Criminal Original Petition is filed to call for the records pertaining to the order passed by the Judicial Magistrate No.1, Karur in Cr.M.P.No.2546 of 2017, dated 06.06.2017 in C.C.No.120 of 2009.



2. Heard Mr.T.Lajapathi Roy, learned counsel appearing for the petitioners, the learned Government Advocate(Criminal side) appearing for the first respondent and Mr.Veera Kathiravan, learned Senior Counsel appearing for the second respondent.

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3.This Criminal Original Petition is filed against the order dismissing the petition to re-call the witnesses PW-1 to PW4. Since the petitioners have not availed the opportunity to cross-examine the witnesses PW1 to PW4 earlier, the petition was dismissed. However, it is stated that due to non availability of certain documents which were required by the petitioners, the witnesses PW1 to PW4 were not cross-examined at the relevant point of time. Not satisfied with the reasons stated by the petitioners that they have not availed the opportunity to cross-examine the witnesses PW1 to PW4, the petition was dismissed by the trial Court. Leave alone the merits of the contention of the petitioner that certain documents were not available at the time of cross-examining the witnesses, having regard to the nature of the criminal case and the facts that were stated by the witnesses, this Court is of the view that denying such permission to the petitioners to cross-examine the witnesses PW1 to PW4 will cause serious prejudice to the case of the petitioners in defending the criminal case. The petitioners have also not raised proper grounds in the petition which was filed under Section 311 of Cr.P.C.

4.Having regard to the facts and circumstance of the case, this Criminal Original Petition is allowed and the order passed by the Judicial Magistrate No.1, Karur in Cr.M.P.No.2546 of 2017, dated 06.06.2017 in C.C.No.120 of 2009 is set aside. The petitioners are given an opportunity to cross-examine the witnesses PW1 to PW4. The petitioners are given liberty to cross-examine the witnesses on the date when they are produced before the Court for the said propose and no further opportunity will be given to the petitioners for cross-examination. This Criminal Original Petition is also allowed subject to the condition that the petitioner shall pay Rs.5,000/- (Rupees Five Thousand only) to the credit of the Hon'ble the Chief Justice Relief Fund, Madurai Bench of Madras High Court, Madurai.

5.This Criminal Original petition is allowed accordingly. Consequently, the connected miscellaneous petitions are closed.

Sd/-

Assistant Registrar(T&P)

/True copy/

Sub Assistant Registrar



To

1. The Inspector of Police,
Vengamedu Police Station,
Karur,
Karur District.

2. The Judicial Magistrate No.1,
Karur.

Copy to:

The Section Officer,
Accounts Section,
Madurai Bench of Madras High Court, Madurai.

+1 cc to Mr.T.Lajapathi Roy , Advocate in SR.No. 75208
+1 cc to M/S.Veera Associates , Advocate in SR.No. 74966

dss/cmr

AE/JC/SAR3/13.09.2017/3P/6C

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