



BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

DATED : 24.07.2017

CORAM :

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THE HONOURABLE MR. JUSTICE S. S. SUNDAR

CRL OP (MD) No. 7848 of 2017
and
CRL MP (MD) No. 5350 of 2017

Dr. Aarthi : Petitioner/PW1/Defacto Complainant
Vs.

1. G. Ganesh Babu
2. Gurusvareddy
3. Gunasekaran Reddy
4. Jeevitha
5. Alagarsamy
6. Aavudaiammal : Respondents/Accused 1 to 5

7. The Inspector of Police,
All Women Police Station,
Vilathikulam,
Tuticorin District. : Respondent/Complainant

PRAYER: Criminal Original Petition is filed under Section 482 of the Criminal Procedure Code, to set aside the impugned order passed by the learned Judicial Magistrate, Vilathikulam, in Cr.M.P.No.8415 of 2016 in C.C.No.82 of 2012, dated on 11.03.2017.

For Petitioner : Mr. G. Karuppasamy Pandian
For R-7 : Mr. K. Anbarasan,
Government Advocate (Crl. Side).
For R-1 to R-3 &
R-5 & R-6 : Mr. N. Ananthapadmanaban.

O R D E R

This Criminal Original petition is filed to set aside the impugned order passed by the learned Judicial Magistrate, Vilathikulam, in Cr.M.P.No.8415 of 2016 in C.C.No.82 of 2012, dated 11.03.2017, allowing the petition filed by the respondents 1 to 6 herein under Section 311 of Cr.P.C.



2. Heard the learned counsel appearing for the petitioner and the learned Government Advocate (Criminal side) appearing for the seventh respondent and the learned counsel appearing for the respondents 1 to 3 and 5 and 6.

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3. The first respondent herein is the husband/first accused and the petitioner is the wife/P.W.1 in C.C.No.82 of 2012 on the file of the learned Judicial Magistrate, Vilathikulam. The respondents 1 to 6 herein filed a petition before the lower Court to recall the witnesses P.W.1 and P.W.2 for the purpose of cross examination on the side of defence. It was alleged in the petition that the lower Court at the time of taking evidence of P.W.2, deferred the examination of witnesses in order to bring certain documents to be marked with such witnesses. It was for the said reason, the chief examination of P.W.2 was stopped by the prosecution and P.W.2 filed a petition to mark fresh documents through him on a subsequent date. Since the documents pertaining to certain articles which are alleged to have been produced pursuant to Dowry demand made by the accused. The documents were marked for a specific purpose. Hence, it is stated that it is necessary to recall P.W.1 and cross examine her in respect of the documents produced through P.W.2. It was in the said circumstances, the lower Court also allowed the above petition. However, the Criminal Original petition is filed to set aside the order of the lower Court in Cr.M.P.No.8415 of 2016 in C.C.No.82 of 2012, filed by the respondents 1 to 6 under Section 311 of Cr.P.C.

4. I have gone through the entire materials on record and the stand taken by the petitioner as well as the respondents before this Court. It is not in dispute that several documents were marked after the cross examination of P.W.1. It was due to the reason that certain documents were marked alleging that those documents are crucial for the prosecution to prove the case against the respondents, the lower Court has applied its mind and exercised its power and discretion and allowed the petition. The order passed by the lower Court is perfectly valid and it does not suffer from any irregularity or illegality. The documents which were marked after cross examination have been filed through P.W.2. Since the P.W.2 who is the person related to the documents, the cross examination of P.W.1 also is necessary in the present case.

5. Having regard to the nature of this case, the contention of the learned counsel for the petitioner that the cross examination of P.W.1 is not necessary does not hold water.

6. In such circumstances, this Court is of the view that there is no substantial infirmity or irregularity in the order passed by the lower Court. Hence, the Criminal Original petition is dismissed



as devoid of any merits. Consequently, connected Miscellaneous petition is closed.

Sd/-

Assistant Registrar(Crl side)

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Sub Assistant Registrar

To

1. The Judicial Magistrate, Vilathikulam.

2.-Do-thro'The Chief Judicial Magistrate,
Tuticorin.

3. The Inspector of Police,
All Women Police Station,
Vilathikulam,
Tuticorin District.

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

+1 cc to Mr.N.Ananthapadmanaban , Advocate in SR.No. 67527

+1 cc to Mr.G.Karuppasamy Pandian , Advocate in SR.No. 67351

pmu

AE/MR KKR/SAR3/16.08.2017/3P/7C

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