



BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

DATED: 14.07.2017

CORAM:

THE HONOURABLE MR.JUSTICE S.S.SUNDAR

CRL.O.P. (MD) No.8977 of 2017

WEB COPY

Pounthai

: Petitioner/Accused

-Vs-

State represented by
The Inspector of Police,
Sindupatti Police Station,
Madurai.

(Crime No.19 / 2014)

: Respondent/Complainant

PRAYER: Petition is filed under Section 482 of the Criminal Procedure Code to set aside the dismissal order passed by the III-Additional District and Sessions Judge (PCR) Madurai in Cr.M.P.No.1107 of 2017 in Spl. S.C.No.16 of 2015, dated on 07.06.2017.

For Petitioner

: Mr.A.S.Sangeetha

For Respondent

: Mr.K.Anbarasan

Government Advocate(Crl.Side)

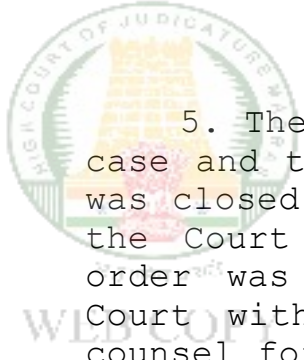
O R D E R

This petition is filed to set aside the order passed by the III-Additional District and Sessions Judge (PCR), Madurai in Cr.M.P.No.1107 of 2017 in Spl.S.C.No.16 of 2015, dated on 07.06.2017.

2.The petitioner is the accused in the above said case and filed a petition to recall the prosecution witnesses PW1, PW3 and PW11 for the purpose of cross-examination. The said petition was allowed subject to the condition that the petitioner shall deposit a sum of Rs.2000/- towards witness batta, i.e., Rs.500/- each to PW1 and PW3 and Rs.1000/- to PW11 on or before 06.06.2017. This order was passed on 24.05.2017. However, when the matter was called on 07.06.2017, it was noticed that the petitioner has not deposited the witness batta as stipulated by the Court below. Hence, the said petition was dismissed on the same day. Aggrieved by that order, the petitioner has come up with this petition before this Court.

3.The learned counsel for the petitioner submitted that the petitioner is a poor lady and that she is not able to pay the batta within the time stipulated by the Court.

4.Heard the learned counsel for the petitioner and the learned Government Advocate(Crl.Side) appearing for the respondents and perused the records.



5. The petition filed by the petitioner was for re-opening the case and to recall three prosecution witnesses after the evidence was closed. In such circumstances, the conditional order passed by the Court below is perfectly in order. Though the conditional order was passed on 24.05.2017, the petitioner is before this Court with this petition after a long time. Now, the learned counsel for the petitioner submitted that the petitioner could not comply the order as she is poor and that she may be given an opportunity without any conditions. If the petitioner had approached this Court immediately after getting the order, there is some meaning and the bonafide of the petitioner could have been accepted. The petitioner had kept quiet till 07.06.2017 and no petition was filed before the Trial Court seeking extension of time to pay the witness batta. Hence, the petitioner cannot be given any indulgence.

6. However, taking into consideration the fact that the petition filed by the petitioner for reopening and recalling the witnesses were allowed on condition, this Court is inclined to pass the following order:

"The order of the Trial Court, dated 07.06.2017 dismissing the petition in Crl.M.P.No.1107 of 2017 in Spl.S.C.No.16 of 2015 is set aside and the order passed by the Court below on 24.05.2017 allowing Crl.M.P.1107 of 2017 in Spl.S.C.No.16 of 2015 is restored subject to the condition that the petitioner shall pay the witness batta as per the direction of the Court below on or before 21.07.2017."

7. With the above direction, this Criminal Original Petition is allowed.

Sd/-

Assistant Registrar(RTI)

/True copy/

Sub Assistant Registrar

To

1. The III-Additional District and Sessions Judge(PCR), Madurai.

2. The Inspector of Police,
Sindupatti Police Station,
Madurai.

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

+1cc to M/s.A.Sangeetha, Advocate, SR.65374

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