



BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

DATED : 12.10.2017

CORAM :

WEB COPY

THE HONOURABLE MR.JUSTICE S.S.SUNDAR

CRL OP(MD)No.22541 of 2016

and

Crl.M.P.(MD) Nos.11761 & 11894 of 2016

Nisha

... Petitioner

Vs.

1.State rep. By
The Inspector of Police,
All women Police Station,
Kuzhithurai
Kanyakumari District.
(In Crime No.7 of 2009)

2.Geethakumari

3.Sri Kumaran Nair ... Respondents
(R2 and R3 are impleaded as per the orders of the Hon'ble
Court made in Crl.M.P(MD)No.11894 of 2016 vide order dated
20.12.2016 by GCJ)

PRAYER: Criminal Original Petition is filed under Section 482 of the Criminal Procedure Code, direction to the Learned Judicial Magistrate No.I, Kuzhithurai, to accept the petitioner and the father of the petitioner namely Bahulayon Nair as witnesses and record their evidence in the above C.C.No.294 of 2009 on the file of Judicial Magistrate No.I, Kuzhithurai.

For Petitioner	: Mr.B.Tamilnidhi
For R1	: Mr.K.S.Durai Pandian, Additional Public Prosecutor.
For R2 & R3	: Mr.S.C.Herold Singh.

O R D E R

This petition has been filed to accept the petitioner and the father of the petitioner, namely, one Bahulayon Nair, as witnesses and record their evidence in the proceedings in C.C.No.294 of 2009 on the file of the learned Judicial Magistrate No.I, Kuzhithurai.

2.The learned counsel for the petitioner states that she is the de-facto complainant in Crime No.7 of 2009 and she has given a complaint as against the accused, namely, her husband and mother-in-law.



3.The case was initiated by the petitioner and the charge sheet came to be filed and the case was taken on file in C.C.No.294 of 2009 on the file of the learned Judicial Magistrate No.I, Kuzhithurai, for the alleged offences under Sections 498(A), 420, 406 I.P.C., and Sections 3, 4 and 6 of Dowry Prohibition Act.

4.The petitioner states that she came to know about the list of witnesses 4 and 6 in the charge sheet were treated as PW1 and PW2 and that they turned hostile. It is further stated that though the petitioner was not examined, she could not get the assistance of the Public prosecutor to file an application or for getting the petitioner and her father examined in the Criminal Case.

5.The further allegation is that the trial Court has proceeded with the trial without even giving sufficient opportunity to the witnesses. Since the trial, without the examination of the petitioner and her father, will not be fair, the petitioner states that she was constrained to file this petition.

6.The learned counsel for the 2nd respondent seriously opposed this petition. He has also submitted that the petitioner and her father have not shown any interest either to examine themselves or to participate in the proceedings. Since the petitioner also has re-married, it is stated that she has lost interest in prosecuting the matter. However, with an intention to exploit the situation to harass the 2nd respondent, who is a government servant, the petitioner started filing petitions one after another without any purpose. It is also stated that the respondent had already obtained a direction before this Court for speedy disposal of the proceedings in the Lower Court and that this petition is nothing but an attempt to drag the proceedings with an ulterior motive.

7.Having regard to the facts and circumstances of the case, the Criminal Case which is pending may not yield any desired result in case the petitioner and her father are not examined as witnesses, hence, this Court is of the view that the petitioner shall be given an opportunity to examine herself as a witness along with her father.

8.Hence, this Criminal Original Petition is allowed and the learned Judicial Magistrate No.I, Kuzhithurai is directed to re-open the case and permit the petitioner and her father to give evidence and to complete the trial within a period of two months from the date of receipt of a copy of this order.

Sd/-
Assistant Registrar

/True Copy/



To
1. The Judicial Magistrate No.1,
Kuzhithurai.

2. The Inspector of Police,
All women Police Station,
Kuzhithurai
Kanyakumari District.

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

+ 1 CC TO Mr.B.TAMIL NITHI, ADVOCATE IN SR No. 82685

DSS/MM

TE/KP/SAR-I : 06/11/2017 : 3P/5C

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