



BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

DATED: 19.01.2017

CORAM:

WEB COPY

THE HONOURABLE MR.JUSTICE B.GOKULDAS

CrI.R.C.(MD).No.864 of 2016 and
CrI.M.P.(MD).No.12602 of 2016

1.Thangameena
2.Vignesh Raja
3.Vicram Raja .. Petitioners/Petitioners/A1 to A3

Vs.

The State rep. by
Inspector of Police,
Thenkarai Police Station,
Theni District,
(Crime No.443 of 2012)

.. Respondent/Respondent/Complainant

Prayer:- Criminal Original Petition is filed under Section 397 r/w 401 of Cr.P.C. to call for the records pertaining to order, passed in CrI.M.P.No.6284 of 2016 in C.C.No.253 of 2012, dated 16.12.2016 on the file of the Judicial Magistrate Court, Periyakulam, Theni District and set aside the order.

For Petitioners :Mr.R.Murugappan
For Respondent :Mrs.S.Prabha
Government Advocate (CrI. Side)

ORDER

The Criminal Original Petition is filed to call for the records pertaining to order, passed in CrI.M.P.No.6284 of 2016 in C.C.No.253 of 2012, dated 16.12.2016 on the file of the Judicial Magistrate Court, Periyakulam, Theni District and set aside the same.

2. The learned counsel for the petitioners submitted that the petitioners have been charged under Section 294(B), 323 and 506(i) IPC r/w under Section 4 of Women Harassment Act in C.C.No.253 of 2012. In the said case, the Trial Court issued NBW against the petitioners on 11.04.2013. Therefore, the petitioners filed a petition under Section 70(2) Cr.P.C. in Cr.M.P.No.6284 of 2016 to recall the NBW. The learned Trial Judge, vide order dated 16.12.2016, dismissed the said petition.



3. The learned counsel for the petitioners submitted that the Trial Court without issuing summons to the petitioners for their appearance in C.C.No.253 of 2012, they straight away issued NBW against the petitioners for their non appearance, which is a clear violation of provision of 87(a) of the Cr.P.C. He further submitted that the 3rd petitioner was minor at the time of the alleged occurrence said to have taken place and also on the date of filing of charge sheet. The learned counsel submitted that the petitioners are ready to cooperate with the trial.

4. The learned Government Advocate (Criminal Side) submitted that since the petitioners did not appear before the Trial Court, NBW was rightly issued against the petitioners by the Trial Court. The NBW may be recalled on condition that the petitioners shall appear before the Trial Court on all hearings.

5. In view of the submissions made by the learned counsel for the petitioners, more particularly that the petitioners will cooperate with the trial, the order passed by the learned Judicial Magistrate, Periyakulam, Theni District, in CrI.M.P.No.6284 of 2016 in C.C.No.253 of 2012, dated 16.12.2016 is hereby set aside and the NBW pending against the petitioners is recalled on condition that the petitioners shall appear before the Trial Court on all future hearings and also as and when required by the Trial Court on summons. Since the case is pending from the year 2012 onwards without any progress, the Trial Court is directed to dispose of the case pending in C.C.No.253 of 2012, on merits and in accordance with law, within a period of 3 months from the date of receipt of a copy of this order. With the above direction, the criminal revision is disposed of. Connected miscellaneous petition is closed.

Sd/-

Assistant Registrar (CS-I)

/True Copy/

Sub Assistant Registrar

jikr

To

1. The Judicial Magistrate, Periyakulam.

2. The Inspector of Police, Thenkarai Police Station,
Theni District.

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

+1CC to Mr.R.Murugappan, Advocate Sr.No.3146

GJM/BS/MR/6.2.17-2p-5C

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