



BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

DATED: 01.11.2017

CORAM

WEB COPY

THE HONOURABLE MR. JUSTICE M.DHANDAPANI

Cr1.O.P. (MD) No.7322 of 2011

and

M.P. (MD) No.1 of 2011

Kalyani .. Petitioner/Defacto Complainant

Vs.

1. The State,
Rep. by the Sub Inspector of Police,
All Women Police Station,
Tenkasi,
Tirunelveli District. .. 1st Respondent/Complainant

2.Thangavel
3.Krishnan Chettiar
4.Manivannan
5.Kannan .. Respondents 2 to 5/
Accused Nos.1-4

PRAYER: Criminal Original Petition is filed under Section 482 of the Code of Criminal Procedure, to call for the records in Cr1.M.P.No.1088 of 2011 in C.C.No.251 of 2008 on the file of Learned Judicial Magistrate, Tenkasi and set-aside the same and direct the Trial Court to recall and re-examine the witnesses mentioned in the Cr1.M.P.1088 of 2011.

For Petitioner : Mr.Pooranachandran for
M/s.S.Ponsenthil Kumaran

For R1 : Mr.K.Anbarasan
Government Advocate (Criminal side)

For R2 to R5 : Mr.N.Mohideen Basha

O R D E R

This Criminal Original Petition has been filed to call for the records in Cr1.M.P.No.1088 of 2011 in C.C.No.251 of 2008 on the file of Learned Judicial Magistrate, Tenkasi and set-aside the same and direct the Trial Court to recall and re-examine the witnesses mentioned in Cr1.M.P.1088 of 2011.



2. The learned counsel for the petitioner submitted that the petitioner/defacto complainant filed a complaint against the accused/respondents 2 to 5 herein, for the offences punishable under Sections 498-A and 406 of IPC and Section 4 of Dowry Prohibition Act and after filing charge sheet, the same has been taken on file in C.C.No.251 of 2008 on the file of the learned Judicial Magistrate, Tenkasi. Pending trial, the State has filed a petition in CrI.M.P.No.1088 of 2011 in C.C.No.251 of 2008 under Section 311 of Cr.P.C. to recall and re-examine PW3, PW5 and PW10 and also for producing additional documents. After detailed examination, the trial Court dismissed the petition as against which the present Criminal Original Petition has been filed to set aside the same and praying for recall and re-examine PW3, PW5 and PW10 before the trial Court. However, the State did not come forward to file this petition before this Court, instead, the petitioner/defacto complainant filed this petition.

3. I have heard the learned counsel for the petitioner, learned Government Advocate (Criminal side) appearing for the first respondent and the learned counsel appearing for the respondents 2 to 5 and perused the materials available on record.

4. When the matter is taken up for hearing today, the learned counsel on both side and the learned Government Advocate (CrI.side) fairly conceded that it would suffice, if a direction is issued to the trial Court to entertain the recall petition and permit that State to re-examine PW3, PW5 and PW10 and also allow them to mark additional documents within a time limit that may be stipulated by this Court.

5. Considering the facts and circumstances of the case and also considering the above said submission of the learned counsel on both side, the order made in CrI.M.P.No.1088 of 2011 in C.C.No.251 of 2008 on the file of Learned Judicial Magistrate, Tenkasi, dated 21.04.2011 is hereby set aside and this Court directs the learned Judicial Magistrate, Tenkasi, to restore the petition for recall the witnesses PW3, PW5 and PW10 and allow them to recall and re-examine the said witnesses and mark additional documents in Cr.M.P.No.1088 of 2011. The said exercise shall be completed within a period of three weeks from the date of receipt of a copy of this order.

6. With the above direction, this Criminal Original Petition is allowed. Consequently, connected miscellaneous petition is closed.

Sd/-

Assistant Registrar(CS-II)

<https://hcservices.ecourts.gov.in/hcservices/> ✓ True Copy/

Sub Assistant Registrar



To

1. The Judicial Magistrate, Tenkasi, Tirunelveli District.
2. The Sub Inspector of Police, All Women Police Station,
Tenkasi, Tirunelveli District.
3. The Additional Public Prosecutor,
Madurai Bench of Madras High Court, Madurai.

+1cc to Mr.S.Ponsenthil Kumaran, Advocate Sr.No.84913

PJL

VB/SKN/RSK/SAR2/20.11.2017/3P/5C

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