

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED 29.08.2018

CORAM

THE HONOURABLE Mr.JUSTICE P.N.PRAKASH

CRL.O.P.No.20914 of 2018

and

CRL.M.P.No.11316 of 2018

Raja Anand

.. Petitioner

Vs

Station House Officer,
Inspector of Police,
Cuddalore Puthu Nagar Police Station,
Cuddalore.

.. Respondent

Criminal Original Petition filed under Section 482 Cr.P.C., praying to call for the records and set aside the order dated 10.07.2018 passed by the learned Judicial Magistrate No.II, Cuddalore in Crl.M.P.No.1473 of 2018 in STC.No.261 of 2016.

For Petitioner : Mr.M.Aravind Subramaniam
For Respondent : Mr.C.Raghavan, GA

O R D E R

The petitioner is facing prosecution in STC.No.261 of 2016 for the offences under Section 447 and 294[b] IPC. It is the case of the prosecution that the son of one Venugopal [de facto complainant/PW1 herein] Arvind Reddy was married to Sudha Hari; that Arvind Reddy died in a road accident and thereafter, Sudha Hari got married to the accused herein; that it is alleged by the de facto complainant that the accused trespassed into his house and demanded certain documents from him. Hence, on the complaint given by the de facto complainant, the respondent Police registered a case in Crime No.299 of 2016 and after completing the investigation, has filed a charge sheet in STC.No.261 of 2016 before the Judicial Magistrate No.II, Cuddalore, for the aforesaid offence. After the charges were framed, the de facto complainant was examined as PW1 on 22.11.2016. He was cross-examined by the accused on the same

day. Thereafter, the prosecution examined other witnesses. While so, the accused filed Crl.M.P.No.1473 of 2018 in STC.No.261 of 2016 for recalling PW1, which has been dismissed by the trial Court, by the impugned order dated 10.07.2018. Challenging which, the accused is before this Court.

2.Heard Mr.Aravind Subramaniam, learned counsel for the petitioner and the learned Government Advocate.

3.Mr.Aravind Subramaniam submitted that the accused wanted to confront PW1 with two documents, in order to disprove the allegation and therefore, it is necessary for PW1 to be recalled for further cross-examination.

4.Per contra, learned Government Advocate refuted the contentions.

5.This court gave its anxious consideration to the rival submission. The allegation against the accused is under Section 447 and 294[b] IPC, which is trespass and abusing the de facto complainant. Even in the petition filed in Crl.M.P.No.1473 of 2018, the accused has not given any valid reasons for recalling PW1. In A.G. Vs Shiv Kumar Yadav (2015[9] Scale 649), the Supreme Court has given guidelines for invoking the power under Section 311 Cr.P.C. It is not the case of the accused that he had not cross-examined PW1 at all. Admittedly, the accused has cross-examined PW1. However, the accused has not made out a case within the parameters of the law laid down by the Supreme Court in A.G. Vs Shiv Kumar Yadav's case [supra] for recalling PW1.

6.In the result, this court does not find any merit warranting interference and this petition is dismissed. However, the trial Court is directed to complete the trial in STC.No.261 of 2016 within three months from the date of receipt of a copy of this order, provided there is no any legal impediment. Consequently, connected Miscellaneous Petition is closed.

Sd/-

Assistant Registrar (CS-IX)

//True copy//

Sub Assistant Registrar

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To

1.Judicial Magistrate No.II,
Cuddalore.

2.Inspector of Police,
Cuddalore Puthu Nagar Police Station,
Cuddalore.

3.The Public Prosecutor,
High Court, Madras.

+1cc to Mr.M. Aravindsubramaniam, Advocate SR.No.5924

CRL.OP.No.20914 of 2018

GM(03/09/2018)



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