

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 09.04.2018

C O R A M

THE HONOURABLE Mr.JUSTICE P.N.PRAKASH

Crl.O.P.No.10895 of 2018

and

Crl.MP.No.5578 of 2018

1.Chandran @ Ramachandran

2.Prabhu

3.Ragu @ Ragupathi

...Petitioners

Vs.

The State

Rep. by its The Inspector of Police

Mettur Police Station

Salem District.

... Respondent

Criminal Original Petition filed under Section 482 of Cr.P.C to set aside the order passed in C.M.P.No.807 of 2017 in C.C.No.63 of 2013 dated 19.04.2017, pending on the file of the Judicial Magistrate No.1, Mettur, by allowing this criminal original petition.

For Petitioners : Mr.R.Thirumoorthy

For Respondent : Mr.C.Raghavan

Government Advocate (Crl.Side)

O R D E R

This criminal original petition has been filed to set aside the order dated 19.04.2017, passed in C.M.P.No.807 of 2017 in C.C.No.63 of 2013, pending on the file of the Judicial Magistrate Court No.1, Mettur.

2. The petitioners are facing trial in C.C.No.63 of 2013 for the offence under Section 392 IPC, before the Judicial Magistrate No.1, Mettur. The trial commenced with the examination of PW1 to PW5 on 13.06.2013. The learned counsel for the accused represented "No Cross". This has been recorded in the deposition. Further witnesses were examined and those witnesses were also not cross-examined. After more than three years, the accused has filed a petition in Crl.MP.No.807 of 2017 in C.C.No.63 of 2013, to re-call PW1 to PW10, which has been dismissed by the Judicial Magistrate No.1, Mettur, by a well considered order dated 19.04.2017, challenging which, the accused are before this Court.

3. The learned counsel for the accused submitted that one opportunity should be given to the accused lest, serious consequences should befall. He further submitted that the accused were arrested in other cases and those case papers were not available with the counsel.

4. It is seen that PW1 to PW5 were examined-in-chief on 13.06.2013. In Vinod Kumar vs. State of Punjab, [2015 (1) MLJ (Cr1.) 288], the supreme Court very clearly stated that the witnesses should be cross-examined on the day, they are examined in chief. Following the said judgment of the Supreme Court, the Registrar General of Madras High Court has issued a circular to all the trial Courts to strictly follow the mandates of the Supreme Court in Vinod Kumar (supra). Thus, for the supine indifference of the accused to cross-examine the witnesses, no indulgence can be shown to re-call the witnesses, who were examined in the year 2013.

5. In such view of the matter, this Court is of the view that there is no infirmity in the order passed by the trial Court. Accordingly, this petition is dismissed. Consequently, connected miscellaneous petition is closed.

Sd/-
Deputy Registrar(CO)

//True Copy//

Sub Assistant Registrar

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To

1. The Judicial Magistrate No.1,
Mettur.

2. The Inspector of Police
Mettur Police Station
Salem District.

3. The Public Prosecutor(Cr1. Side)
High Court, Madras.

+1cc to Mr.R.Thirumoorthy, Advocate, S.R.No.26213

Cr1.O.P.No.10895 of 2018

RRK(23/04/2018)