

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 19.04.2018

C O R A M

THE HONOURABLE Mr.JUSTICE P.N.PRAKASH

Crl.O.P.No.11553 of 2018
and Crl.MP.Nos.6030 & 6031 of 2018

Karthikeyan

...Petitioner

Vs.

The State,
Represented by the Inspector of Police,
Saravanampatty Police Station,
Coimbatore (C.C.No.838 of 2015)

... Respondent

Criminal Original Petition filed under Section 482 of Cr.P.C to set aside the order passed in CMP.No.6629 of 2017 by the learned Judicial Magistrate No.II at Coimbatore dated 20.10.2017 which was confirmed against the petitioner in CRP.No.2 of 2018 dated 13.03.2018 on the file of the Hon'ble District and Sessions Judge, Coimbatore.

For Petitioner : Mr.Kingsly Solomon.J
For Respondents : Mrs.P.Kritika Kamal,
Government Advocate (Crl.Side)

O R D E R

This Criminal Original Petition has been filed seeking to set aside the order passed in CMP.No.6629 of 2017 by the Learned Judicial Magistrate No.II at Coimbatore dated 20.10.2017 which was confirmed against the petitioner in CRP.No.2 of 2018 dated 13.03.2018 on the file of the Hon'ble District and Sessions Judge, Coimbatore.

2.The petitioner is facing trial in C.C.No.838 of 2018 for the offences under Sections 506 (i) IPC and Section 4 of Women Harassment Act. PW1 and PW2 were examined in chief. The petitioner did not chose to cross examine them. Thereafter, the petitioner filed C.M.P.No.2674 of 2017 under Section 311 Cr.P.C. which was allowed by the trial court and the petitioner was directed to make payment of process batta within one week. The petitioner did not file process batta. Therefore, the petition was dismissed. The petitioner filed the second petition in CMP.No.6629 of 2017 in C.C.No.838 of 2018 under Section 311 Cr.P.C. for recalling PW1 and PW2 which has been dismissed by the trial court on 20.10.2017. Challenging the said order, the

petition approached the Sessions Court in CRP.No.2 of 2018. The Sessions Court by detailed order dated 13.03.2018 has dismissed the petition. Hence, the petitioner is before this Court.

3. Heard the learned counsel appearing for the petitioner and the learned Government Advocate(Crl.Side) appearing for the respondent.

4. At the outset, this petition is not maintainable, since a second revision under Section 397 (3) Cr.P.C. is barred. However, where it is shown that the courts below lacked jurisdiction, it is always open to the High Court to exercise its powers under Section 482 Cr.P.C. In this case, the petitioner did not cross examine the witness under they were examined in chief as directed by the Hon'ble Supreme Court in the case of Vinothkumar Vs. State of Punjab reported in [CDJ 2015 SC 115] :: [2015 (3) SCC 220]. Thereafter, the petitioner filed CMP.No.2674 of 2017 which was allowed by the trial court with a direction to the petitioner to file the batta within one week. The petitioner did not file batta. Therefore, the Cr.MP.No.2674 of 2017 was dismissed. Once again, the petitioner has filed CMP.No.6629 of 2017 which has been rightly rejected by both the courts.

5. In such view of the matter, this is not a fit case to interfere in the order passed by the court below. The petition is devoid of merits. and the petition is dismissed. Consequently, the connected miscellaneous petitions are closed

s/d-

Assistant Registrar(CS VII)

True Copy

Sub-Assistant Registrar

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To

1. The District and Sessions Judge,
Coimbatore.
2. The Judicial Magistrate No.II,
Coimbatore
3. Do Thro The Chief Judicial Magistrate, Coimbatore
4. The Inspector of Police,
Saravanampatty Police Station,
Coimbatore

5. The Public Prosecutor,
High Court, Madras.

+1 CC to Mr. Kingsly Solomon, Advocate sr 29698.

Crl.O.P.No.11553 of 2018
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SP(27/04/2018)



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