

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 12.02.2018

CORAM

THE HONOURABLE MR. JUSTICE M.S. RAMESH

CRL.O.P.No.24499 of 2017
and Crl.MP. No.14179 of 2017

Mani @ Manikandan

..Petitioner/Accused

Vs

State rep. by
The Inspector of Police(L & O)
E-3, Thynampet Police Station,
Chennai-600006.
(Crime No.547 of 2012)

.. Respondent/Complainant

PRAYER: Criminal Original Petition filed under Section 482 of Cr.P.C, praying to set aside the order dated 31.10.2017 in Cr.MP. No.14185 of 2017 in S.C. No. 254 of 2012 on the file of the learned Mahila Judge, Chennai and allow the petitioner to recall the witnesses PW1 and PW2.

For Petitioner : Dr.G.Krishnamurthy
For Respondent : Mrs.Kritika Kamal.P
Government Advocate(Crl.Side)

O R D E R

The prayer in the present petition is to set aside the order dated 31.10.2017 in Cr.MP. No.14185 of 2017 in S.C. No. 254 of 2012 on the file of the learned Mahila Judge, Chennai and allow the petitioner to recall the witnesses PW1 and PW2.

2. Heard both sides.

3. On perusal of the order passed in Crl.MP. No.14185 of 2017 dated 31.10.2017 on the file of the learned Mahila Judge, Chennai, I do not find any infirmity with regard to the reasonings given for rejecting the petitioner's request to recall PW1 and PW2.

4. It is now brought to my notice by the learned counsel for the petitioner that the trial Court had earlier allowed to recall and cross examine PW3. However in the counter affidavit

filed in CrI.M.P. No. 14185 of 2017, it was mentioned that the PW3 had already died.

5. It is further submitted by the learned counsel for the petitioner that since the trial Court had taken into consideration that one of the witnesses may be permitted to recall, the other witnesses viz., PW1 and PW2 were rejected. I do not wish to express any of my views with regard the said submissions made by the learned counsel. However, in view of the aforesaid observations with regard to PW3, it would be appropriate to permit the petitioner herein to file a fresh application under Section 311 Cr.PC for the purpose of recalling PW1 & PW2. On receipt of the same, the trial Court shall proceed on its own merits and pass appropriate orders. It is made clear that I have not expressed any of my views with regard to merits of the application to be filed by the petitioner herein.

With these observations, the Criminal Original Petition stands closed. Consequently, the connected miscellaneous petition is closed.

Sd/-
Asst.Registrar (CS IX)

/true copy/

Sub Asst. Registrar

To

1. The Sessions Judge,
Mahila Court,
Chennai.
2. The Inspector of Police,
E-3, Thynampet Police Station,
Chennai-600006.
3. The Additional Public Prosecutor
High Court, Madras.

+1cc to Mr.J.B.Solomon Peter Kamaldoss, Advocate sr.10527

CRL.O.P.No.24499 of 2017
and CrI.M.P. No.14179 of 2017

nr 12/02/2018