

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 28.04.2018

CORAM:

THE HON'BLE MR. JUSTICE P.N. PRAKASH

Crl.O.P. No.12749 of 2018

Gunasekaran

Petitioner

vs.

State represented by
the Inspector of Police
W-22, All Women Police Station
Mylapore
Chennai 600 004

Respondent

Criminal Original Petition filed under Section 482, Cr.P.C. seeking to set aside the order dated 11.04.2018 in Crl.M.P. No.890 of 2018 in C.C. No.736 of 2012 by the XVIII Metropolitan Magistrate, Saidapet, Chennai and to direct to recall P.W.1 for the purpose of cross-examination.

For petitioner Mr. S.N. Arunkumar
For respondent Mr.C. Raghavan
Government Advocate (Crl. Side)

ORDER

This Criminal Original Petition has been filed seeking to set aside the order dated 11.04.2018 passed in Crl.M.P. No.890 of 2018 in C.C. No.736 of 2012 by the XVIII Metropolitan Magistrate, Saidapet, Chennai and to direct to recall P.W.1 for the purpose of cross-examination.

2 The petitioner is facing prosecution before the XVIII Metropolitan Magistrate, Saidapet, Chennai, in C.C. No.736 of 2012 for the offences under Sections 498-A, 506(i) and 406 IPC. It is seen that P.W.1 was examined in chief on 21.05.2014 and she was not cross-examined on that day. However, she was called on 15.02.2017 which is three years later and was cross-examined in detail by the petitioner. Thereafter, the petitioner has preferred Crl.M.P. No.890 of 2018 in C.C. No.736 of 2012 for recalling P.W.1, which has been dismissed by the Trial Court by order dated 11.04.2018, challenging which, the petitioner is before this Court.

3 Mr. S.N. Arunkumar, learned counsel for the petitioner submitted that if one opportunity is given to the petitioner and a date fixed, the petitioner would cross-examine P.W.1.

4 It is not the case of the petitioner that P.W.1 was not at all cross-examined. Records show that three years after the chief examination, P.W.1 was cross-examined. Even in the petition filed by the petitioner in CrI.M.P. No. 890 of 2018 under Section 311 Cr.P.C., he has not given any valid reason for recalling P.W.1.

5 In A.G. Vs. Shiv Kumar Yadav and others, [(2015) 9 Scale 649], the Supreme Court has given guidelines for the exercise of powers under Section 311 Cr.P.C. The facts obtaining in this case do not pass muster the law laid down in Shiv Kumar Yadav (supra), warranting interference by this Court.

In view of the above, this Criminal Original Petition fails and is accordingly dismissed.

Sd/-

Assistant Registrar(CS V)

//True copy//

Sub Assistant Registrar

cad

To

1 The Inspector of Police
W-22, All Women Police Station
Mylapore
Chennai 600 004

2 The Public Prosecutor
Madras High Court
Chennai - 600 104

CrI.O.P. No. 12749 of 2018

GN(09/05/2018)