

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 18.06.2018

CORAM:

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

Crl.O.P. No.15605 of 2018 & Crl.M.P. No.7972 of 2018

S. Krishnaveni ..Petitioner/Appellant/Accused
Vs.

Indian Overseas Bank
Thirunagar Colony Branch
represented by its Chief Manager
M. Baskaran
S/o Munusamy
No.52-A, Meenachi Sundaram Street
Erode 638 003 ..Respondent/Respondent/Complainant

Prayer: Criminal Original Petition filed under Section 482 Cr.P.C. seeking to set aside the order dated 27.03.2018 passed in Crl.M.P. No.26 of 2018 in Crl.A. No.95 of 2017 on the file of the Sessions Judge, Magalir Neethi Mandram (Fast Track Mahila Court), Erode.

For petitioner : Mr. C. Prakasam

ORDER

This Criminal Original Petition has been preferred seeking to set aside the order dated 27.03.2018 passed in Crl.M.P. No.26 of 2018 in Crl.A. No.95 of 2017 on the file of the Sessions Judge, Magalir Neethi Mandram (Fast Track Mahila Court), Erode.

2 The petitioner has been convicted in S.T.C. No.474 of 2016 and her appeal is now pending in Crl. Appeal No.95 of 2017. At the appellate stage, Indian Overseas Bank filed an application under Section 391 Cr.P.C. for permitting them to mark the authorisation that has been given to the branch for initiating the prosecution. The said petition has been allowed by the Trial Court by order dated 27.03.2018, challenging which, the accused is before this Court.

3 Mr. C. Prakasam, learned counsel for the accused submitted that the complainant cannot be permitted to fill up a lacuna at the appellate stage when arguments have been completed. He further submitted that undue prejudice will be caused to the accused if the bank is permitted to file the authorisation.

4 In the opinion of this Court, in a criminal case, the best evidence should be made available either in favour of the accused or in favour of the complainant at any time even during the appellate stage and in fact, Section 391 Cr.P.C. permits that.

5 In the case at hand, the bank is seeking to only file the general authorisation that has been given to the Chief Manager of Thirunagar Colony Branch of Indian Overseas Bank, which can have no prejudice to the case of the accused. That apart, the accused has not raised this aspect in the Trial Court and therefore, when she raised this aspect before the first appellate Court, the complainant thought it fit to cure this technicality by seeking to file the petition under Section 391 Cr.P.C. It is always open to the accused to cross-examine the witness and pick holes in his evidence. Hence, this Court does not find any infirmity in the impugned order dated 27.03.2018 passed by the Sessions Judge, Magalir Neethi Mandram (Fast Track Mahila Court), Erode in Crl.M.P. No.26 of 2018 in Crl.A. No.95 of 2017.

In the result, this Criminal Original Petition is dismissed as being devoid of merits. Connected Crl.M.P. is closed.

s/d-
Assistant Registrar (CS VI)

True Copy

Sub-Assistant Registrar

cad
To

- 1 The Chief Manager
Indian Overseas Bank
Thirunagar Colony Branch
No.52-A, Meenachi Sundaram Street
Erode 638 003
 - 2 The Sessions Judge
Magalir Neethi Mandram (Fast Track Mahila Court)
Erode
 - 3 The Public Prosecutor
High Court of Madras
Chennai 600 104
- +1 CC to Mr. C. Prakasam, Advocate sr 38239.

SP(27/06/2018) Crl.O.P. No.15605 of 2018