

IN THE HIGH COURT OF JUDICATURE AT MADRAS
DATED : 25.07.2018
CORAM
THE HONOURABLE MR.JUSTICE P.N.PRAKASH
Crl.OP.No.18586 of 2018

Karunanidhi

... Petitioner

Vs

The State Rep. by
The Sub Inspector of Police
All Women Police Station
Vellore, Vellore District.
(cr.No.25/2014)

...Respondent

Criminal Original Petition filed under Section 482 of Cr.P.C., to set aside the order passed by the learned Judicial Magistrate No.I, Vellore in C.M.P.No.55 of 2018 in C.C.No.280 of 2014 dated 20.03.2018 and consequently, allow this petition.

For Petitioner : Mr.M.Rajendiran
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 20.03.2018 passed by the Judicial Magistrate No.I, Vellore in C.M.P.No.55 of 2018 in C.C.No.280 of 2014.

2. The petitioner is facing a prosecution in C.C.No.280 of 2014 under Section 498-A IPC before the Judicial Magistrate No.I, Vellore. PW1 & PW2 were examined-in-chief on 05.08.2014. Thereafter, the petitioner filed CMP.No.55 of 2018 in C.C.No.280 of 2014 to recall PW1 & PW2 for cross-examination. The trial court has dismissed the said petition on 20.03.2018, aggrieved by which, the petitioner/accused is before this Court.

3. The learned counsel for the petitioner/accused submitted that the petitioner may be given an opportunity to cross-examine PW1 & PW2, otherwise, undue prejudice would be caused to the accused.

4. Per contra, the learned Government Advocate refuted the contention.

5. It is seen that PW1 and PW2 were examined-in-chief on 05.08.2014. The petitioner filed CMP.No.2919 of 2017, to recall PW1 to PW7, which was allowed by the trial Court on condition that the petitioner should pay Rs.200/- to each of the witness for cross-examination. On 04.12.2017, PW1 & PW2 were present before the trial Court, but the learned counsel did not choose to cross-examine PW1 & PW2. Thereafter, the evidence was closed. The petitioner again filed a petition under Section 311 Cr.P.C in CMP.No.55 of 2018 on the ground that the learned counsel was held in the Sessions Court.

6. Proviso to Section 309 Cr.P.C., reads as follows:

" (a) no adjournment shall be granted at the request of a party, except where the circumstances are beyond the control of that party;

(b) the fact that the pleader of a party is engaged in another Court, shall not be a ground for adjournment."

In such view of the matter, this Court does not find any infirmity in the order passed by the trial Court warranting interference. Hence, this petition is dismissed, as being devoid of merits.

Sd/-

Assistant Registrar(Audit)

//True Copy//

Sub Assistant Registrar

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To

1. The Judicial Magistrate No.I,
Vellore.

2. -do-thro' chief Judicial Magistrate
Vellore Direct .

3. The Sub Inspector of Police
All Women Police Station
Vellore, Vellore District.

4. The Public Prosecutor
High Court, Madras.

+1cc to Mr.M.Rajendiran, Advocate, S.R.No.50120

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GSP(02/08/2018)