

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED 10.08.2018

CORAM

THE HONOURABLE Mr.JUSTICE P.N.PRAKASH

CRL.O.P.No.19877 of 2018 and
CRL.M.P.No.10573

Mayavan @ Chellamuthu

.. Petitioner

Vs

1.The State,
Rep. by Inspector of Police,
All Women Police Station,
Virudhachalam.

2.Periyammal .. Respondents

Criminal Original Petition filed under Section 407 Cr.P.C.,
praying to withdraw the S.C.No.283 of 2016 pending on the file
of Additional Judge Cuddalore (Mahila Court) to transfer the
same to nearest Mahila Court either at Villupuram District,
Perambalur District or Ariyalur District directing to dispose
the same on merits.

For Petitioner : Mr.T.Sivagnanasambandan

For Respondent : M.Prabhavathi, APP

O R D E R

This Criminal Original Petition has been filed to withdraw
the S.C.No.283 of 2016 pending on the file of Additional Judge
Cuddalore (Mahila Court) to transfer the same to nearest Mahila
Court either at Villupuram District, Perambalur District or
Ariyalur District directing to dispose the same on merits.

2.The petitioner is facing trial in crime No.283 of 2018
before the Mahila Court (Sessions level) for the offences under
sections 294(B), 506(ii), 417, 376 of IPC and Section 4 of the
Dowry Prohibition Act. In such circumstances, the petitioner
has filed the present petition making allegations against the
trial Judge, that he is not giving fair opportunity for the
defence to cross examine the prosecution witnesses.

4. Heard Mr.T.Sivagnanasambandan, learned counsel for the petitioner and the learned Additional Public Prosecutor for the 1st respondent.

5. On a perusal of the records, it is seen that this is the third round litigation before this Court. In fact in Crl.O.P.No.3153 of 2017, dated 27.07.2018, this Court has issued a slew of directions, wherein, this Court recorded the fact that the DNA test is in favour of the accused inasmuch as the test report shows that Thulasimani (A1), has not fathered the child of the de facto complainant. This Court has also dispensed with the appearance of the petitioner herein before the trial Court, of course on certain conditions. The petitioner/accused cross-examined PW-1, but did not cross-examine PW2, PW3 and PW4. They filed an application under section 311 Cr. P. C. to recall PW1 to PW4, which has been allowed by the trial Judge on 25.07.2018 with a cost of Rs.1,000/- payable to each witness.

6. Mr.T.Sivagnanasambandan, learned counsel for the petitioner contended that the cost of Rs.1,000/- is exorbitant and therefore, the petitioner is prejudiced. In Vinod Kumar vs. State of Punjab [2015(1) MLJ (Crl) 288], the Supreme Court has held that the prosecution witnesses should be cross-examined on the day they are examined in chief. Following the Vinod Kumar case supra, the Registrar General of the High Court has issued a circular to all the trial Courts to strictly follow the law laid down in Vinod Kumar case. In A.G. Vs. Shiv Kumar Yadav and another, [(2015) 9 Scale 649], the Supreme Court laid down the parameters for entertaining petitions under Section 311 Cr.P.C.

7. Though the petition filed by the accused before the trial Court, has not given any good reasons to recall PW1 to PW4, yet the trial Judge has shown indulgence by allowing the petition on 25.07.2018 with modest cost of Rs.1,000/-. Under such circumstances, this Court does not find any reason to transfer the trial as prayed for by the petitioner.

8. Hence this petition is dismissed. Consequently, connected miscellaneous petition is dismissed.

-s/d-

Deputy Registrar

True Copy

Sub-Assistant Registrar

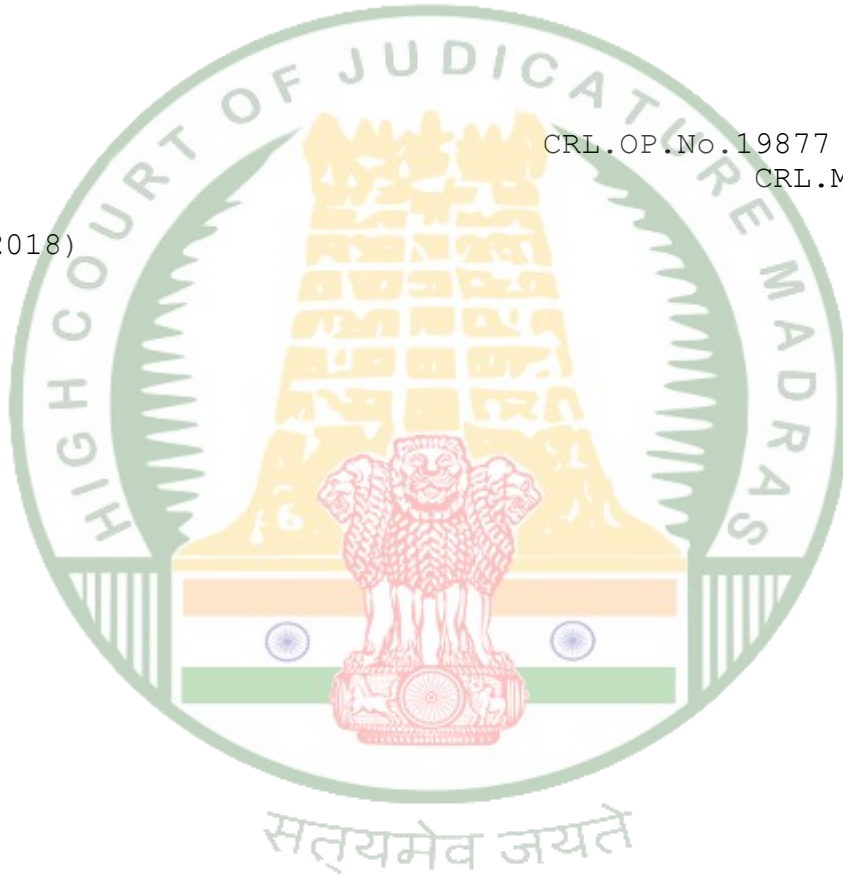
Kal/dua

To

1. The Additional Judge (Mahila Court)
Cuddalore.
2. The Inspector of Police,
All Women Police Station,
Virudhachalam.
3. The Public Prosecutor,
High Court of Madras.

CRL.OP.No.19877 of 2018 and
CRL.M.P.No.10573

SP(30/08/2018)



WEB COPY