

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED 16.08.2018

CORAM

THE HONOURABLE Mr.JUSTICE P.N.PRAKASH

CRL.O.P.No.19961 of 2018
AND CRL.M.P.No.10627 &10628 of 2018

Venkatesan

.. Petitioner

Vs

The State represented by,
The Inspector of Police,
W.25, All women Police Station,
T.Nagar, Chennai - 600017

.. Respondent

Criminal Original Petition filed under Section 482 Cr.P.C., prayed to set aside the order in so far as dismissal with respect to recalling of P.W.2, P.W.5 to P.W.7 and P.W.9 and summoning of Ms.Thamarai in Crl.M.P.4947 of 2018 in S.C.No.212 of 2016.

For Petitioner : Mr.R.Shase
For Respondent : Mr.C.Raghavan, GA

O R D E R

The petitioner is facing trial in S.C.No.212 of 2016 before the Mahila Court, Chennai, for offences under Section POCSO Act. The petitioner filed Crl.M.P.No.4947 of 2018 in S.C.No.212 of 2016 under Section 311 Cr.P.C for recalling P.W.1 to P.W.8 for further cross-examination and to summon Thamarai as court witness or accused side witness. This petition has been partly allowed by the trial Court by order dated 06.06.2018, thereby, the trial Court has permitted the recall of P.W.1, P.W.3, P.W.4 and P.W.8. But has disallowed the petition, with regard to P.W.2, P.W.5, P.W.6, P.W.7 and P.W.9 and for summoning of Thamarai. Challenging the said order, the petitioner is before this court.

2.Heard the learned counsel appearing for the petitioner and the learned Government Advocate appearing for the respondent.

3.At the outset, it is seen that the petitioner has not given any good reasons for recalling the aforesaid witnessess. In A.G. Vs Shiv Kumar Yadav [2015(9) Scale 649], the Supreme Court has laid down the parameters for exercise of power under Section 311 Cr.P.C. In this case, the petitioner has already cross-examined P.W.5, P.W.6 and P.W.7. Just because, there has been a change of counsel, that will not be a good reason to recall the said witnesses. That apart, the petitioner cannot call upon the Court to examine Thamarai as court witness. The trial Court has permitted the recall of the P.W.1, P.W.3, P.W.4 and P.W.8 for the purpose of cross-examination by the petitioner. Under such circumstances, this Court does not find any infirmity in the order passed by the Court below warranting interference and this petition is dismissed. Consequently, connected Miscellaneous Petitions are closed.

dua/gya

Sd/-

Deputy Registrar(cs)

//True Copy//

Sub Assistant Registrar

To

1.The Inspector of Police,

W.25, All women Police Station,

T.Nagar,

Chennai - 600017.

2.The Public Prosecutor,

High Court of Madras.

CRL.OP.No.19961 of 2018

ASK(30/08/2018)