

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 12.07.2018

CORAM:

THE HONOURABLE MRS. JUSTICE R. HEMALATHA

CRL.O.P.NO.26184 OF 2012

AND

M.P.NO.1 OF 2012

1.Kumar

2.Pappa

...Petitioners

Versus

State represented by
The Deputy Superintendent of Police,
Mangalamedu Police Station,
Perambalur District.
(Crime No.552 of 2009)

....Respondent

This Criminal Original Petition is filed under Section 482 of Criminal Procedure Code praying to call for the records in Cr.M.P.No.422 of 2012 in S.C.No.57 of 2011 dated on 04.10.2012 on the file of the Sessions Judge, Mahila Court, Perambalur and set aside the same.

For Petitioners : Mr.R.Sankarasubbu

For Respondent : Mr.T.Shunmugarajeswaran,
Government Advocate (Crl.Side)

ORDER

The petitioners are accused in S.C.No.57 of 2011 on the file of the learned Sessions Judge, Mahila Court, Perambalur.

2. The petitioners have filed the present petition to set aside the order passed by the learned Sessions Judge, Mahila Court, Perambalur in Crl.M.P.No.422 of 2012 in S.C.No.57 of 2011 dated 04.10.2012.

3. The Deputy Superintendent of Police, Mangalamedu Police Station, Perambalur/Investingating Officer filed a petition under Section 311 of Cr.P.C to issue summons to one Dr.Sangeetha, who had recorded the Accident Register when the deceased Menaka was brought before her with 99% burn injuries,

since a copy of the Accident Register was not filed along with the final report.

4. The learned Sessions Judge, Mahila Court, Perambalur, after full contest, allowed the petition by observing that the evidence of Dr.Sangeetha is very important for the just decision of the case and that the accused would not be prejudiced, if the said witness is examined on the side of the prosecution.

5. The learned counsel appearing for the petitioners would contend that when the Investigating Officer had not filed the statement of Dr.Sangeetha at the time of filing the final report, now he cannot seek the permission of the Court to examine Dr.Sangeetha under Section 311 of Cr.P.C, especially, when the copy of the Accident Register was not furnished to the accused under Section 207 of Cr.P.C.

6. A perusal of the record shows that the accused are charged for the alleged offences punishable under Sections 498-A, 306 and 394 of I.P.C and it is the case of the prosecution that deceased Menaka was brought before Dr.Sangeetha immediately after she(Menaka) set herself ablaze. According to the prosecution, the deceased was brought to the Hospital with 99% burn injuries and Dr.Sangeetha gave first aid to the deceased and also recorded this fact in the Accident Register. Merely, because the Investigating Officer has omitted to examine Dr.Sangeetha during the course of investigation, it cannot be said that the prosecution should not examine her under Section 311 of Cr.P.C. The learned Sessions Judge, Mahila Court, Perambalur has given cogent reasons for allowing the petition and therefore, the said order does not warrant any interference by this Court. If the prosecution wants to mark a copy of the Accident Register, another copy of the same should be furnished to the accused.

7. In the result, this Criminal Original Petition is dismissed. Consequently, connected Miscellaneous Petition is closed.

Sd/-

Assistant Registrar(CO)

//True Copy//

Sub Assistant Registrar

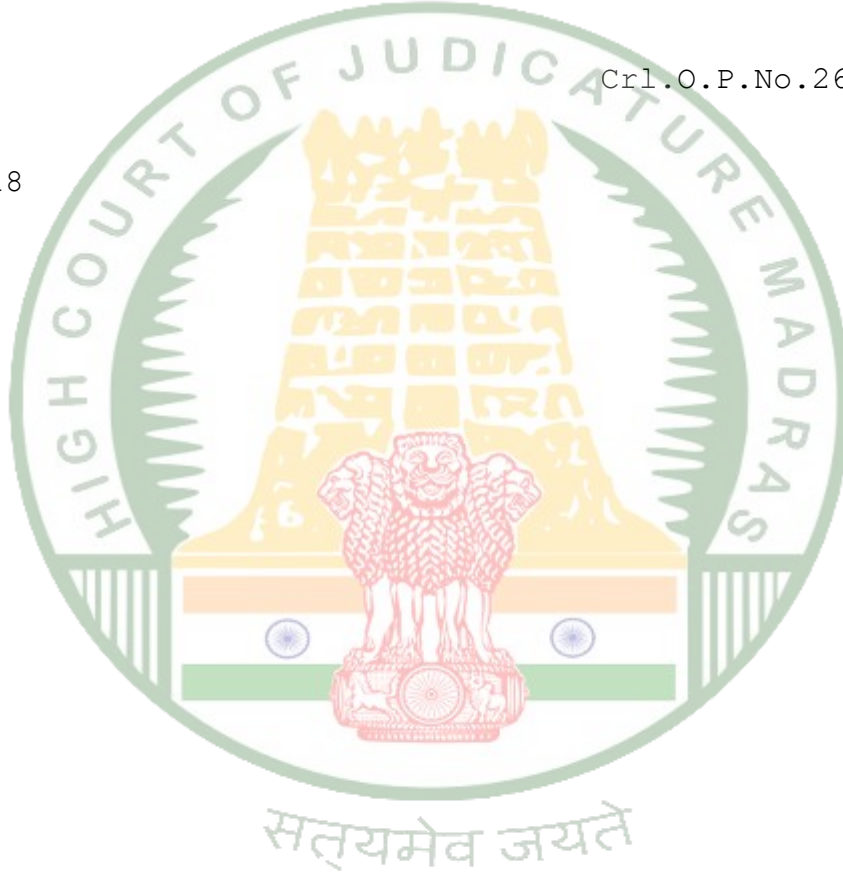
mrr

To

1. The Sessions Judge,
Mahila Court,
Perambalur.
2. The Deputy Superintendent of Police,
Mangalamedu Police Station,
Perambalur District.
3. The Public Prosecutor,
High Court, Madras.

Crl.O.P.No.26184 of 2012

KGK(Co)
CS/06/08/18



WEB COPY