

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 22.11.2018

CORAM

THE HONOURABLE MR.JUSTICE N.ANAND VENKATESH

CRL.O.P.No.21492 of 2017

and

CrI.M.P. No.12639 of 2017

S.D.Prabhakaran

... Petitioner

Vs.

The State rep. by
The Inspector of Police,
B-4 Race Course,
Coimbatore -18.

... Respondent

PRAYER: This Criminal Original Petition is filed under Section 482 of the Code of Criminal Procedure, to call for the records and set aside the order passed in C.M.P. No.3267 of 2017 in C.C. No.249 of 2014 on the file of the Judicial Magistrate No.III at Coimbatore dated 06.09.2017.

For Petitioner : Mr.C.Deivasigamani

For Respondent : Mr.M.Mohamed Riyaz
Additional Public Prosecutor

ORDER

This petition has been filed challenging the order passed by the Court below dismissing the application filed by the petitioner under Section 311 of Cr.P.C.

2.It is seen for the records that the petitioner is facing trial before the Court below for an offence under section 323 I.P.C. and Section 4 of Woman Harassment Act.

3.The prosecution had examined P.W.1 to P.W.9 and had also marked Ex.P.1 to Ex.P.4. Thereafter, the petitioner filed an application under Section 311 of Cr.P.C. in order to summon the Inspector of Police, B-4 Race Course, Coimbatore, Dr.Gajendran, Causality Medical Officer, CMC Coimbatore and the Inspector of

Police, P.C.R. Wing Offence of the Social Justice Hindu Religion Commissioner, Coimbatore, as witnesses in this case.

4.The Court below had dismissed the application on the ground that the Inspector of Police, B-4 Race Course, Coimbatore was already examined by the prosecution as P.W.8 and he was also cross-examined on the side of defense and the same witness cannot be examined as defence witness. Insofar as the Doctor is concerned, the Court below found that there was no reason for the petitioner to examine the Doctor and there were absolutely no reasons stated in the petition also and therefore, the Court below held that the Doctor need not be examined in this case. Insofar as the Inspector of Police, P.C.R. Wing Offence is concerned, the Court below held that the petitioner did not even mention as to which Inspector has to be examined and what are the reasons as to why this Inspector has to be examined. Therefore, the Court below has found that there was no prima facie ground made out by the petitioner to examine these witnesses and these witnesses are not required for the purpose of coming to a just decision in this case.

5.The learned counsel for the petitioner would submit that these witnesses should be examined since the petitioner had suffered injuries in the hands of the de-facto complainant and had also given a complaint to the respondent police and the respondent police did not register any FIR or conduct any enquiry. Therefore, the learned counsel would submit that these witnesses will have to be examined in order to establish the fact that the petitioner was attacked and in spite giving a complaint, it was not investigated by the police. Therefore, the learned counsel would submit that fair opportunity must be given to the petitioner to defend himself in this case.

6.The learned Additional Public Prosecutor would submit that Calender Case is of the year 2014 and the reasons given by the Court below does not require any interference by this Court. The learned Additional Public Prosecutor would further submit that the petitioner wants to drag on the proceedings.

7.This Court has carefully considered the submissions made on either side. This Court does not find any illegality or infirmity in the order passed by the Court below. The first witness who was sought to be examined on the side of the defense was already examined as P.W.8 by the prosecution and he has also been cross-examined by the petitioner. Therefore, there is no requirement to examine the Inspector of Police, B-4 Race Course, Coimbatore. Insofar as the Doctor and the Inspector of P.C.R. Wing Offence are concerned, the petitioner does not even say the purpose for which they need to be examined. The petition filed before the Court below is completely bald without any reasons

and therefore the Court below rightly came to a conclusion that the examination of these witnesses are not required to come to a fair and just decision in this case. This Court does not find any ground to interfere with the order passed by the Court below.

8.In the result, this Criminal Original Petition is dismissed with a direction to the Court below to complete the proceedings within a period of two months from the date of receipt of a copy of this order. Consequently, connected miscellaneous petition is closed.

Sd/-
Assistant Registrar

//True copy//

Sub Assistant Registrar

ia/nmm

To

- 1.The learned Judicial Magistrate No.III
Coimbatore
- 2.The Inspector of Police,
B-4 Race Course,
Coimbatore-18.
- 3.The Public Prosecutor,
High Court of Madras.

SSD(CO)
GMY(17/12/2018)

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CRL.O.P.No.21492 of 2017

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