

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED 26.09.2018

CORAM

THE HONOURABLE Mr.JUSTICE P.RAJAMANICKAM

CRL.O.P.No.22870 of 2018

and

CRL.M.P.No.12736 of 2018

1.Mani @ Manikandan

2.Muruganantham ...Petitioners/ Petitioners
/Accused Nos.1 & 2

Vs.

State rep. by its,
Inspector of Police,
Pollachi Taluk Police Station,
Coimbatore District.
(Crime No.5 of 2017)

...Respondent/Respondent/Complainant

PRAYER: Criminal Original Petition filed under Section 482 of the Code of Criminal Procedure, to set aside the order dated 11.09.2018 passed in C.M.P.No.3408 of 2018 in C.C.No.138 of 2017, on the file of Judicial Magistrate No.IV, Coimbatore and to allow the Criminal Original Petition.

For Petitioners: Mr.W.Camyles Gandhi

For Respondent : Mrs.M.Prabhavathi
Additional Public Prosecutor

सत्यमेव जयते
O R D E R

This petition has been filed by the petitioner Nos.1 and 2 to set aside the order passed by the learned Judicial Magistrate No.IV, Coimbatore in C.M.P.No.2408 of 2018 in C.C.No.238 of 2017 dated 11.09.2018.

2.The leaned counsel for the petitioners has submitted that the petitioners are facing trial for the alleged offences under Sections 454 and 380 of IPC. He further submitted that when PW.5 to PW.10 were examined in Chief, the petitioners' counsel was out of station and hence the aforesaid witnesses were not cross-examined on the same day. He further submitted that the aforesaid witnesses are material witnesses and unless

they are cross-examined, the petitioners cannot prove their case and therefore, he requests to set aside the order passed by the learned Judicial Magistrate No.IV, Coimbatore and permit the petitioners to cross-examine the PW.5 to PW.10.

3.The learned Additional Public Prosecutor has submitted that already an opportunity was given to the petitioners herein to cross-examine PW.5 to PW.10, but they have not availed the said opportunity and now the case is posted for cross-examination of Investigating Officer and hence she strongly opposed this petition.

4.Considering the fact that the petitioners are facing charges under Sections 454 and 380 of IPC and also the fact that the PW.5 to PW.10 were examined in Trial Court only on 25.07.2018 and the petitioners have filed petition to recall those witnesses on 11.09.2018 itself and also the fact that the prosecution evidence not yet closed and it is posted only for examination of Investigating Officer, this Court is inclined to allow this petition by imposing certain conditions.

5.In the result, the petition will be allowed on deposit of Rs.2,000/- to the credit of District Legal Services Authority, Coimbatore, within a period of one week from the date of receipt of a copy of this order, failing which, this petition shall stand dismissed automatically, without any further reference to this Court.

6.In case, the petitioners have complied with the aforesaid conditions and produce a proof as to the payment of the aforesaid amount, the learned Judicial Magistrate No.IV, Coimbatore, has to recall PW.5 to PW.10 and give an opportunity to the petitioners to cross-examine the said witnesses. The petitioners also directed to cross examine the said witnesses as and when they appear before the Court without seeking further adjournments.

7.With the aforesaid directions, this Criminal Original Petition is disposed of. Consequently, connected miscellaneous petition is closed.

sd/-

Assistant Registrar(CCC)

//True Copy//

Sub Assistant Registrar

To

1.The Judicial Magistrate No.IV,
Coimbatore.

2.The Inspector of Police,
Pollachi Taluk Police Station,
Coimbatore District.

3.The Public Prosecutor,
High Court, Madras.

+1cc to Thiru W.Camyles Gandhi, Advocate Sr.67124

CRL.O.P.No.22870 of 2018

mr[co]
srg 02/11/2018



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