

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 22.11.2018

CORAM:

THE HONOURABLE MR. JUSTICE V.PARTHIBAN

Crl.Revision Case No.1319 of 2018 &
Crl.M.P.No.15554 of 2018

1.Vimalanathan
2.Radha
3.Selvaraj
4.D.Murugan
5.D.Jayakrishnan ...Petitioners

-vs-

Inspector of Police,
Papparapatti Police Station,
Dharmapuri District ...Respondent

Prayer: This Criminal Revision Case is filed under Section 397 & 401 of Cr.P.C., against the order dated 23.10.2018 passed in Crl.M.P.No.3044/2018 in C.C.No.19 of 2016 by the learned District Munsif cum Judicial Magistrate, Pennagaram.

For Petitioners : Mr.M.Selvam
For Respondent : Mr.G.Harihara Arun -
Somasankar, GA

ORDER

This Criminal Revision Case has been filed against the order dated 23.10.2018 passed in Crl.M.P.No.3044/2018 in C.C.No.19 of 2016 by the learned District Munsif cum Judicial Magistrate, Pennagaram, in and by which, the petition filed by the respondent under Section 173(5) Cr.P.C., for marking additional documents, came to be allowed.

2.It appears that a case was registered against the accused, who are the petitioners herein on the complaint lodged by one Thiru Govindan/defacto complainant for the offences under Sections 147, 148, 324, 406, 420, 447, 341, 465, 506(ii) IPC. After completion of the investigation, the case was taken on file and on framing the charges against the petitioners, trial was conducted and the prosecution examined the defacto complainant as PW.1 in part and thereafter, on behalf of the prosecution a petition under Section 173(5) Cr.P.C., has been

moved before the Court below, seeking to receive certain documents and permit the prosecution to mark the same during the trial, which are necessary to prove the guilt of the accused. The said petition was resisted by the petitioners by filing a counter affidavit, stating that all the documents which are pertaining to the charge, ought to be furnished along with 161 Cr.P.C., statement to the accused and after filing the charge sheet and after commencement of the trial, the prosecution cannot introduce new documents or witnesses, which would cause prejudice to the petitioners. The Court below, by order dated 23.10.2018, allowed the petition. Questioning the same, the petitioners have come forward with the present Criminal Revision Case.

3. Heard the learned counsel for the petitioners and the learned Government Advocate (Crl.Side) and perused the materials placed on record.

4. The learned counsel for the petitioners would submit that the order passed by the Court below in allowing the petition filed by the respondent is incorrect and cannot be sustained. According to him, after furnishing the copies of documents along with 161 Cr.P.C., statements and after commencement of the trial, the prosecution cannot improve its case against the accused and the documents sought to be marked as additional evidence, are not relevant and the prosecution cannot go beyond the scope of the case.

5. A perusal of the order passed by the learned Magistrate, would reveal that the prosecution is not introducing new facts or new documents beyond its case and that the documents which were sought to be marked as additional documents are pertaining to the prosecution case and they are relevant. The learned Magistrate also relied upon the decisions of the Hon'ble Supreme Court and the Delhi High Court that even after submission of charge sheet, further investigation, if called for, is not precluded and when further investigation is not precluded, then there is no question of not permitting the prosecution to produce additional documents which were gathered prior to or subsequent to investigation. In fact, the petitioners have not stated as to how they are going to be prejudiced if the additional documents are marked as evidence. Further, before marking the additional documents, the petitioners would be supplied with the same in advance so that the defence may not be taken by surprise and may be prepared to contradict or to make use of the same. Therefore, this Court does not find any infirmity in the order passed by the learned Magistrate in order to interfere with the same.

6. Accordingly, the Criminal Revision Case is dismissed.
Consequently, connected MP is closed.

Sd/-
Assistant Registrar

//True Copy//

Sub Assistant Registrar

suk

To

- 1) Inspector of Police,
Papparapatti Police Station,
Dharmapuri District
- 2) District Munsif cum Judicial Magistrate,
Pennagaram.
3. The Public Prosecutor,
High Court of Madras.

Copy to: The Section Officer,
Criminal Section,
High Court, Madras.

+1 cc to Mr.M.Selvam, Advocate, S.R.No.79686

CRL.R.C.NO.1319 OF 2018

NRL (CO)
SSM(15/02/2019)

सत्यमेव जयते
WEB COPY