

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 21.12.2018

CORAM:

THE HON'BLE MR.JUSTICE N.ANAND VENKATESH

CrI.O.P.No.30306 of 2018

and

CrI.M.P.No.17837 of 2018

Suseela Yuvaraj

... Petitioner

vs.

D.Kumerasan

... Respondent

PRAYER: Criminal Original Petition filed under Section 482 of the Code of Criminal Procedure, to set aside the order passed in CrI.M.P.No.10393 of 2018 in C.C.No.1548 of 2016 by the Metropolitan Magistrate Court, Fast Track Court No.IV, George Town, Chennai-600 001, dated 14.12.2018 and allow the above Criminal Original Petition.

For Petitioner : M/s.Padmaja Mohan

O R D E R

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., to reopen the case for defense side evidence.

2. It is seen from the records that the evidence on the side of the complainant was completed and the case is at the stage of questioning under Section 311 Cr.P.C. Thereafter, the petitioner was given several opportunities to let in evidence on the side of the defense. Since no witness was examined, the defense side evidence was closed on 22.05.2017 itself and the case was posted for arguments. Thereafter, the petitioner filed an application under Section 311 of Cr.P.C., for reopening the evidence on the side of the defense. This petition was allowed by the Court below.

3. The petitioner examined herself as P.W.1 on 31.05.2017 and the petitioner was also cross examined by the respondent. Thereafter, the petitioner failed to examine other witnesses and due to the absence of the petitioner, a non bailable warrant was also issued and it was subsequently, recalled. After recalling

of the non bailable warrant, the petitioner has filed a petition under Section 311 of Cr.P.C., for the purpose of reopening the defense side evidence.

4. The Court below on considering the entire facts of the case, gave a clear finding that the petitioner is attempting to drag on the proceedings by filing one petition after another. Considering the conduct of the petitioner, the Court below dismissed the petition by imposing a cost of Rs.2500/- against the petitioner, to be paid to the District Legal Aid, Chennai.

5. The learned counsel for the petitioner would submit that one more opportunity may be given to the petitioner in order to substantiate her defense.

6. This Court does not find any ground to interfere with the order passed by the Court below. The petitioner has been dragging on the proceedings from the year 2017 onwards and this is the second petition filed by the petitioner under Section 311 of Cr.P.C., to examine the defense witness. There is no illegality or infirmity in the order passed by the Court below. The Court below has given cogent reasons while dismissing the petition filed by the petitioner. This Court does not find any merits in this petition.

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

dss

To

1. The Metropolitan Magistrate Court,
Fast Track Court No.IV, George Town,
Chennai-600 001.
2. The Public Prosecutor,
Madras High Court, Chennai.

+lcc to M/s.Padmaja Mohan, Advocate in sr.no.89976

Cr1.O.P.No.30309 of 2018

SSI(CO)
CS/29/01/2019