



BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

DATED: 02.02.2018

CORAM

WEB COPY

THE HON'BLE MR.JUSTICE P. RAJAMANICKAMCrl.O.P.(MD) No.1596 of 2018

Gajendran

... Petitioner

-Vs-

The state rep. by
The Deputy Superintendant of Police,
Thiruvarur Sub Division,
Thanjavur District.
In (Vadavoor P.S. Crime No.25 of 2015)

... Respondent

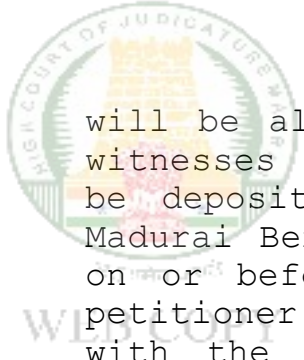
Prayer: This Criminal Original petition is filed under Section 482 of Code of Criminal Procedure, to call for the records pertaining to the order passed by the I Additional District and Sessions Judge (PCR), Thanjavur District in Crl.M.P(MD).No.711 of 2017 in S.S.C.No.80 of 2015 dated 27.05.2017 and set aside the same.

For Petitioner : Mr.M. Pitchaimuthu

For Respondent : Mr.Prabhu Ramachandran
Government Advocate (Crl. Side)**O R D E R**

This petition has been filed to set aside the order passed by the I Additional District and Sessions Judge (PCR), Thanjavur District in Crl.M.P(MD).No.711 of 2017 in S.S.C.No.80 of 2015, dated 27.05.2017.

2. The learned counsel appearing for the petitioner has submitted that the petitioner is facing trial for the offences under Sections 294(b), 323, 325 and 506(i) of IPC r/w. 3(1)(s), 3(2)(Va) of SC/ST (POA) Act, 1989. He further submitted that in that case the witnesses PW.1 to PW.8 were examined in chief, but, the petitioner could not cross examine them on the same date, due to Advocates Boycott and hence, subsequently, the petitioner has filed a petition under Section 311 of Cr.P.C., in Crl.M.P.No.711 of 2017 to recall the aforesaid witnesses for the purpose of cross examination. He further submitted that the learned trial Judge has passed a conditional order on 21.04.2017 that the said petition



will be allowed on payment of cost of Rs.1,000/- to each of the witnesses viz., PW.1 to PW.6 and another sum of Rs.2,000/- shall be deposited in the account of the Registrar (Administration), Madurai Bench of Madras High Court for removal of Karuvelam Trees on or before 05.05.2017. He further submitted that since the petitioner's grand mother died, the petitioner could not comply with the said conditional order and consequently, the learned trial Judge has dismissed the said petition by his order dated 27.05.2017. He further submitted that since the aforesaid witnesses are material witnesses, one more opportunity may be given to the petitioner to cross examine those witnesses otherwise, the petitioner will put to irreparable loss.

3. The learned Government Advocate (Crl. Side) appearing for the respondent has submitted that the petitioner has wilfully dis-obeyed the order of the trial Court and with a view to drag on the proceedings he has filed this petition and hence, he is strongly opposing for allowing the petition.

4. Considering the aforesaid submissions and also the charges which are facing by the the petitioner, this Court is inclined to grant one more opportunity to the petitioner to cross examine the witnesses viz., PW.1 to PW.8, by imposing some additional cost.

5. In the result, this Criminal Original Petition will be allowed on deposit of the cost which was already awarded by the trial Court and also additional cost of Rs.2,000/- before the trial Court in the account of the Registrar (Administration), Madurai Bench of Madras High Court, Madurai, on or before 14.02.2018. If the petitioner has not paid the aforesaid cost before the trial Court on or before 14.02.2018, this Criminal Original Petition shall stand dismissed automatically without any further reference to this Court. If the petitioner has complied with the aforesaid conditions, the trial Court has to give an opportunity to the petitioner to cross examine the above said witnesses and dispose of the Spl.S.C.No.80 of 2015 without granting unnecessary adjournments.

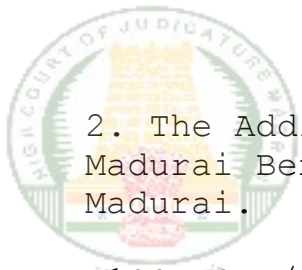
Sd/-
Assistant Registrar(W)

/True Copy/

Sub Assistant Registrar

To

1.The Deputy Superintendent of Police,
Police Station, Sub Division,
Thanjavur District.



2. The Additional Public Prosecutor,
Madurai Bench of Madras High Court,
Madurai.

+1CC TO M/S.M.PITCHAIMUTHU, ADVOCATE, SR NO.45856

WEB COPY

Cr1.O.P.(MD) No.1596 of 2018
02.02.2018

trp

MS/CM-VR/SAR.3/07.02.2018/3P.4C