



BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

DATED : 13.08.2018

CORAM:

THE HONOURABLE DR.JUSTICE **G.JAYACHANDRAN**

Cr1.R.C(MD)No.152 of 2018
and
Cr1.M.P(MD)No.2066 of 2018

V.P.Gopalakrishnan : Petitioner/Respondent No.5/
5th Respondent

Vs.

1.K.Murugesan : First Respondent/Petitioner/
Appellant

2.The State rep. By
The Sub-Inspector of Police,
District Crime Branch,
Karur.
[Crime No.21 of 2010].

: Second
Respondent/First Respondent/
1st Respondent

3.A.Ramasamy

4.R.Selvakumar

5.M.Valarmathi

6.P.Palanisamy

7.M.Mohanraj

: Respondents
3 to 7/Respondents 2 to 4, 6 & 7/
Respondents 2 to 4, 6 & 7

PRAYER: Criminal Revision Case is filed under Section 401 of the Code of Criminal Procedure, praying to set aside the order passed by the Fast Track Mahila Court Judge, Karur, in Cr1.M.P.No.9 of 2018 in Criminal Appeal No.98 of 2017, dated 14.02.2018.

For Petitioner : Mr.K.Suresh

For Respondent No.1 : Mr.P.Murugesan

For Respondent No.2 : Mr.K.K.Ramakrishnan,
Additional Public Prosecutor.



For Respondents 3 to 7 : No appearance

ORDER

This Criminal Revision Case is filed praying to set aside the order dated 14.02.2018 made in CrI.M.P.No.9 of 2018 in Criminal Appeal No.98 of 2017 on the file of the learned Additional Sessions Judge, Fast Track Mahila Court, Karur.

2. Heard the learned counsel for the petitioner, learned counsel for the first respondent and the learned Additional Public Prosecutor for second respondent police.

3. Learned counsel for the first respondent seeks time to file counter. The matter is pending since 16.03.2018. Records were also called for from the Court below. In the said circumstances, though the learned counsel for the first respondent seeks further time to file counter, this Court is not inclined to entertain such a request, since from the reading of the revision petition and the documents, this Court finds that a patent error in the order of the first appellate Court, which requires interference by the High Court exercising its power under Section 397 Cr.P.C.

4. The facts of the case are that the criminal trial against the revision petitioner for offences under Sections 406, 465, 467, 468, 471 and 420 ended in acquittal and thereafter, the *de facto* complainant, K. Murugesan, has preferred an appeal and Criminal Appeal No.98 of 2017 is pending on the file of the Additional Sessions Judge, Fast Track Mahila Court, Karur. When the matter was reserved for Judgment after hearing the arguments, the *de facto* complainant has taken out an application under Section 391 (1) Cr.P.C., to produce additional documents, namely, patta passbook for S.F.No.48/4 and certified copies of First Information Report and charge sheet in C.C.No.262 of 2015. The first appellate Court, despite counter filed by the revision petitioner/fifth respondent has allowed the petition filed under Section 391(1) Cr.P.C. holding that no prejudice will be caused by entertaining the petition.

5. It is brought to the notice of this Court that the patta passbook, which is sought to be marked at the appellate stage, is already marked as Ex.D.1, before the Trial Court. As far as the First Information Report and charge sheet in C.C.No.262 of 2015 are concerned, they are documents, which are related to a subsequent event and they cannot have any bearing in respect of the earlier event. Criminal case which has been set into motion subsequent to the disposal of the present case in appeal, cannot have any bearing in deciding the appeal and the subsequent conduct of the revision petitioner/accused No.4 has no relevance in a criminal case. Since, the order of the first appellate Court,



which is impugned, is patently erroneous, this Court is inclined to set aside the order. Accordingly, the order dated 14.02.2018 made in CrI.M.P.No.9 of 2018 in Criminal Appeal No.98 of 2017 on the file of the learned Additional Sessions Judge, Fast Track Mahila Court, Karur is set aside and the first appellate Court is directed to hear the parties and dispose of the appeal within a period of one month from the date of receipt of a copy of this order.

6.This Criminal Revision Case is allowed on the above terms. Consequently, connected Miscellaneous Petition is closed.

Sd/-

Assistant Registrar (CS-II)

// True Copy //

Sub Assistant Registrar(CS-III)

To

- 1.The Additional Sessions Judge,
Fast Track Mahila Court,
Karur.
- 2.The Sub-Inspector of Police,
District Crime Branch,
Karur.
- 3.The Additional Public Prosecutor,
Madurai Bench of Madras High Court,
Madurai.
4. The Section officer,
Criminal Section (Records)
Madurai Bench of Madras High Court, Madurai.(2 COPIES)

+1 CC To MR.P.MURUGESAN, Advocate SR. NO. 78918

ORDER MADE IN
CrI.R.C (MD) No.152 of 2018
and
CrI.M.P (MD) No.2066 of 2018

SMN

DS/SKN/SAR-III (18.09.2018) 3P 7C