



WEB COPY

BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

RESERVED ON : 06.04.2018

DELIVERED ON : 20.06.2018

CORAM

THE HONOURABLE MRS. JUSTICE R. THARANI

CrI. R.C.(MD)No.197 of 2018

and

CrI. M.P.(MD)No.2623 of 2018

1.Sakkamma @ Jebakumar

2.Lakshmanan

3.Dharmaraj

4.Benjamin

.. Petitioners

Vs.

The Inspector of Police,
Nanguneri Police Station
Tirunelveli District.
(Crime No.95 of 2016)

.. Respondent

PRAYER : This revision case is filed under Sections 397 r/w. 401 of Cr.P.C., to call for the records pertaining to Cr.M.P.No.130 of 2018 in S.C.No.765 of 2016 on the file of the fourth Additional Sessions Judge, Tirunelveli and set aside the order dated 07.02.2018 passed by the IV Additional Sessions Judge, Tirunelveli.

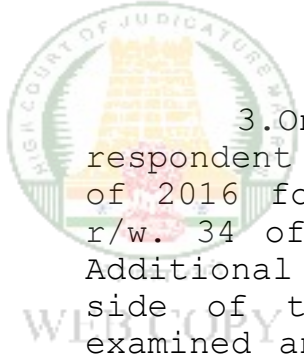
For Petitioners : Mr.R.Pon Karthikeyan

For Respondent : Mr.K.Suyambulinga Bharathi
Government Advocate(CrI. Side)

ORDER

Heard Mr.R.Pon Karthikeyan, learned counsel appearing for the petitioners and Mr.K.Suyambulinga Bharathi, learned Government Advocate (CrI. Side) appearing for the respondent.

2.This revision case has been filed to set aside the order passed in Cr.M.P.No.130 of 2018 in S.C.No.765 of 2016 dated 07.02.2018 on the file of the fourth Additional Sessions Judge, Tirunelveli.

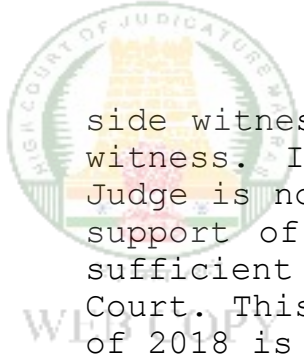


3. On the side of the petitioner, it is stated that the respondent registered a case against the petitioners in Crime No.95 of 2016 for the offences under Sections 120(b), 341, 294(b), 302 r/w. 34 of IPC. The case was taken on the file of the learned IV Additional Sessions Judge, Tirunelveli in S.C.No.765 of 2016. On the side of the petitioners, it is stated that 15 witnesses were examined and the case was posted for defence side evidence. It is stated that the alleged place of occurrence appears to be 'U' bent road and the same is also clearly drawn in the rough sketch filed by the prosecution. The prosecution witness P.Ws.1, 2 and 3 have also admitted the road is 'U' bend road and one cannot witness the occurrence from the other side. The facts are being so, this means that the alleged witness have not seen the occurrence at all. The petitioner filed the petition for spot inspection under Section 310 Cr.P.C., but the petition was dismissed by the trial Court as unnecessary. Visiting local place of occurrence is essential for the purpose of properly appreciating the evidence letting by the parties and to verify whether in the said circumstances, it was possible for the witness to have seen the occurrence. It is further argued that an eyewitness has admitted that there is 'U' bent which prevented the vision of the person from other side. The rough sketch reveals that there is 'U' bent in the occurrence place. On the side of the petitioner, it is stated that the case is not in the argument stage, but the case is only pending for defence side witness. Only one day is enough for visiting the spot. It would not cause any delay in the trial.

4. On the side of the respondent, it is stated that prosecution evidence was over and the accused was questioned under Section 313 Cr.P.C., and during the argument, this petition was filed and the trial Court alone can decide whether the spot visit is necessary or not. Even after the completion of the trial, the trial Court decided that the inspection of the spot is not necessary. It is further stated that no question regarding the place of occurrence is put forth to the Village Administrative Officer and to the Investigative Officer while they were in the witness box. Only to drag on the trial proceedings, this unnecessary petition is filed. Hence, he prayed for the dismissal of this petition.

5. The case of the petitioner is that the place of the occurrence is 'U' shape road and there is no possibility for the witness to have seen the occurrence. P.W.5 is the Village Administrative Officer. The Observation Mahazer is prepared by P.W.15, Investigating Officer who has also prepared the rough sketch. The lower Court came to the conclusion that the petitioner has not questioned those witnesses regarding the place of occurrence and regarding this point. The lower Court conducted trial of the case will be in a better position to appreciate the evidence and the decision of the trial Court is that the spot visit is not necessary.

6. Based on the evidence and records, it is decided that the petitioner is at liberty to prove the occurrence by way of defence



side witness, by way of documents and by way of cross examining the witness. In this circumstances, the spot visit by the concerned Judge is not necessary. The reasons stated in the affidavit filed in support of this petition are not satisfactory, there is no reason sufficient enough to interfere with the orders passed by the Trial Court. This petition is dismissed. Consequently, Crl.M.P.(MD)NO.2623 of 2018 is closed.

Sd/-
Assistant Registrar(RTI)

/True copy/

Sub Assistant Registrar

To

- 1.The IV Additional Sessions Judge,
Tirunelveli.
- 2.The Inspector of Police,
Nanguneri Police Station
Tirunelveli District.
- 3.The Additional Public Prosecutor,
Madurai Bench of Madras High Court,
Madurai.

+1cc to Mr.R.Pon Karthikeyan, Advocate, SR.No.69042.

Crl. R.C. (MD)No.197 of 2018

mrn

RAM/JC/SAR 3/29.06.2018/2P/5C