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BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

DATED : 16.08.2018

CORAM:

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

Cr1.R.C(MD)No.431 of 2018
and
Cr1.M.P(MD) No.6038 of 2018

A.Mohamed Gawan : Petitioner/Petitioner/
Complainant

Vs.

1.A.Abdul Majid
2.M.Kathar Masthan
3.Ismail
4.Sait
5.M.Ahmed
6.M.Mohamed Diwan Mohideen
7.M.Syed Sulthan
8.K.Sheik Mohamed
9.A.Mohamed Jailani
10.Rabeek
11.A.Thameem Ansari
12.M.Jaffar Sathik
13.A.Maathar Maideen
14.M.Ismail
15.Mohamed Jailani
16.M.Kabir

: Respondents/Respondents/
Accused 1 to 16

17.K.Ashokan : Respondent/Respondent

PRAYER: Revision filed under Section 397 read with Section 401 of the Code of Criminal Procedure, to call for the records and to set aside the order passed in Cr.M.P.No.3580 of 2018, on the file of the Judicial Magistrate Court, Uthamapalayam, Theni District dated 05.07.2018 by allowing this Criminal Revision Petition and to proceed further in accordance with law.

For Petitioner : Mr.M.Mohamed Sherbudeen
For R-2 and R-12 : No appearance

ORDER

This criminal revision case is filed against the order dated 05.07.2018 passed in Cr.M.P.No.3580 of 2018 on the file of the Judicial Magistrate, Uthamapalayam, Theni District.



2. The revision petitioner is the *de facto* complainant and he examined himself as P.W.1 in C.C.No.12 of 2018. After examination, he has filed an application to receive the additional documents with photographs and photocopies of certain bills and the trial Court after perusal of the records, has dismissed the petition on the ground that the photographs of the bills are not original. The petition does not disclose where and when the photographs were taken. Further the bills sought to be marked here, are long prior to the date of occurrence i.e., 16.10.2014. The Trial Court has also pointed out the matter has been pending from the year 2016. P.W.1 was examined on 05.12.2017. While so, the application to receive the additional documents has been filed on the fog end of the trial on 04.06.2018, when the matter was posted for questioning the accused under Section 313 Cr.P.C. The reasons stated by the trial Court does not warrant to any interference, since they are justifiable.

3. Further, the learned counsel for the revision petitioner would submit that after disposing the miscellaneous petition on 05.07.2018, the trial Court has adjourned the case for judgment on 04.08.2018, informing about the fact that the revision petition is filed challenging the order passed by the trial Court in Cr.M.P.No.3580 of 2018. In support of the submission, the diary extract of the learned trial Judge is also produced.

4. A perusal of the diary extract reveals that on 04.06.2018 accused has cross examined P.W.1 to P.W.3 and the matter was adjourned for questioning the accused under Section 313 Cr.P.C. on 18.06.2018. On the very same date, the petition to receive the additional documents has been filed by the revision petitioner. The trial Court has considered the petition to receive the additional evidence and has dismissed the same on 05.07.2018. The trial Court on 18.06.2018 has questioned the accused persons about the incriminating circumstances in the prosecution evidence and adjourned the case on 05.07.2018 for defence side evidence. On 05.07.2018, recording the presence of the accused and the complainant and closed the defence side evidence and adjourned the matter on 04.08.2018 for Judgment or for production of stay order copy against Cr.M.P.No.3580 of 2018, which was disposed by the trial Court. The said case is posted on 03.09.2018 for judgment. Then, the present criminal revision case has been filed.

5. The learned counsel for the revision petitioner would submit that the trial Court is likely to proceed with the case without hearing the arguments of the complainant to dispel the apprehension.

<https://hcservices.ecourts.gov.in/hcservices>
6. This Court makes it clear that the trial Court shall hear both the parties and pass appropriate orders in accordance with law. With the above observations, this Criminal Revision Case is



dismissed.
dismissed.

Consequently, connected miscellaneous petition is

Sd/-

Assistant Registrar(CO)

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/True Copy/

Sub Assistant Registrar(CS-IV)

To

The Judicial Magistrate ,
Uthamapalayam, Theni District.

CP

VB/RP/SAR4/28.08.2018/3P/2C

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