



BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

DATED : 27.08.2018

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THE HONOURABLE MR.JUSTICE N.ANAND VENKATESH

CrI OP(MD)No.14744 of 2018
and
CrI MP(MD)No.6547 of 2018

1.Dhanaraj

2.Vennila @ Megala

3.Rahuman @ Andichamy

... Petitioners

Vs.

State represented through
The Inspector of Police,
Varusanadu Police Station,
Theni District.

...Respondent

PRAYER:- Petition filed under Section 482 of Criminal Procedure Code, to call for the records pertaining to the impugned order passed in CrMP(MD)No.602 of 2018 in SC.No.85 of 2016 on the file of the learned Fast Track Mahila Court, Theni and set aside the same and allow the direction petition.

For Petitioners : Mr.R.Karunanidhi

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

ORDER

This petition has been filed challenging the order passed by Fast Track Mahila Court, dismissing the application filed by the petitioner under Section 311 CrPC to recall P.W.1 to P.W.10.

2.The petitioners are A-1 to A-3 in S.C.No.85 of 2016 and are facing trial for the offence under Section 4(B) of the Tamil Nadu Prohibition of Harassment of Woman Act, 1998.

3.The prosecution has examined ten witnesses and none of the witnesses was examined by the petitioners. Earlier the petitioner filed CMP No.758 of 2017 to recall and cross examine PW.1 to PW.10 and the same was allowed by an order dated 05.10.2017 by the Court below.

4.The petitioners did not properly avail the said opportunity and did not cross examine the witnesses. The only reason given by the petitioners for not cross-examining the witnesses was that the



Senior Advocate who was representing the petitioners was not doing well.

5.The petitioner have again filed the present petition to recall PW.1 to PW.4 and the same was dismissed by the Court below by giving cogent reasons and also taking into consideration the previous conduct of the petitioners. This Court does not find any illegality or infirmity in the order passed by the Court below. However, with a view to afford one more opportunity to the petitioners, this Court deems it fit to permit the petitioners to cross examine them. The order of the Court below in CrMP No.602 of 2018 dated 17.07.2018 is hereby set aside and the petitioners are permitted to recall and cross examine PW.1 to PW.4.

6.The trial Court shall ensure the availability of the witnesses before issuing process. The trial Court shall fix a date for appearance of the witnesses before putting the witnesses in witness box. They shall be furnished with deposition, so that they can refresh their memory and only thereafter they can be subjected to cross examination. On the day, when the witnesses appear, if the petitioners fail to cross examine them even on account of Boycott of Courts, the petitioners will forfeit their rights to recall them again.

7.Each of the petitioners shall pay the cost of Rs.2,000/-, to each of the witnesses, when they come for giving evidence. If any other witness are examined on the side of the prosecution, the petitioners shall cross examine those witnesses also on the very same day when they are examined in chief and the trial Court shall ensure that the directions issued by the Hon'ble Supreme Court of India in *Vinod Kumar Vs State of Punjab*, reported in 2015 (3) SCC 220, are strictly complied with.

8.This Criminal Original Petition stands allowed on the above directions. Consequently, CrMP(MD)No.6547 of 2018 is closed.

Sd/
Assistant Registrar(CO)

/True copy/

Sub Assistant Registrar (CS-II)

To

1.The Sessions Judge,
Fast Track Mahila Court,
Theni.

2.The Inspector of Police,
Varusanadu Police Station,
Theni District.



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

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Cr1 OP (MD) No.14744 of 2018
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