



BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

DATED: 08.11.2018

CORAM:

THE HONOURABLE MR.JUSTICE A.D.JAGADISH CHANDIRA

CrI.O.P.[MD].No.19442 of 2018

and

CrI.M.P.(MD)No.8827 of 2018

WEB COPY

Gladis Vijila Kumari : Petitioner/Petitioner/Accused
Vs.

The Inspector of Police,
All Women Police Station,
Kanyakumari,
Kanyakumari District.

: Respondent/Respondent/Complainant

PRAYER : Criminal Original Petition is filed under Section 482 of Cr.P.C., to allow this application and set aside the order passed in C.M.P.No.2904 of 2017 in C.C.No.111 of 2015 on the file of Judicial Magistrate No.III, Nagercoil, dated 10.10.2017.

For Petitioner : Mr.Reegan S Bel

For Respondent : Mr.A.Robinson

Government Advocate (Criminal side)

ORDER

This Criminal Original Petition has been filed seeking to set aside the order passed by the learned Judicial Magistrate No.III, Nagercoil, dated 10.10.2017 dismissing the petition to re-call the P.W.4 and P.W.6.

2.The petitioner is facing trial for the offence punishable under Sections 498(A), 406, 294(b) I.P.C in C.C.No.111 of 2015. The learned counsel for the petitioner would submit that the petitioner is aged about 64 years and that she has been suffering from various ailments including cancer due to which, she was unable to cross examine P.W.4 and P.W.6, who have been examined in chief on 30.03.2016 and 24.05.2016 respectively. He would submit that the witnesses are very much essential for arriving at a just decision.

3.The learned Government Advocate (Criminal Side) would submit that P.W.4 had been examined on 30.03.2016 and P.W.6 had been examined on 24.05.2016. He would further submit that the petition has been filed belatedly on 18.09.2017 and the petition has been filed without stating any reasons for recalling the witnesses and nothing has been stated for the delay in filing the petition to recall. He would further submit that the learned trial Judge had rightly dismissed the petition as early as on 10.10.2017, whereas the petition before this court has been filed very much belatedly after a period one year as the case has been posted for arguments.



4.I have gone through the order passed by the learned trial Judge. The learned trial judge has held that no specific reason has been stated by the petitioner for not cross examining the P.W.4 and P.W.6 on the date of Chief examination and that the petition has been filed after lapse of 1 ½ years and thereby the learned trial Judge had rightly dismissed the petition. Moreover, the petition before this Court has also filed after a period of one year after dismissal of the petition by the trial court on 10.10.2017. I see no reason to interfere with the orders passed by the learned trial Judge.

5.Accordingly, this Criminal Original Petition is dismissed. Consequently, connected miscellaneous petition is closed.

Sd/-

Assistant Registrar(CS-I)

/True Copy/

Sub Assistant Registrar(CS-III)

To

1.The Judicial Magistrate No.III,
Nagercoil.

2.The Inspector of Police,
All Women Police Station,
Kanyakumari,
Kanyakumari District.

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

+1CC to Mr.Reegan S Bel, Advocate, SR.No.94841

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DAS

ES/PM/SAR 3/20.12.2018/2P/5C