



BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

DATED : 12.10.2018

WEB COPY

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THE HONOURABLE MR.JUSTICE N.ANAND VENKATESH

Crl.O.P (MD) No.18400 of 2018

1.Ganesan
2.Subramanian
3.Pauldurai
4.Manikandan

... Petitioners

vs.

The Inspector of Police,
Maanur Police Station,
Tirunelveli District.

... Respondent

Prayer: This Criminal Original filed under Section 482 of the Code of Criminal Procedure, to call for the records pertaining to the order passed in Cr.M.P.No.4295 of 2018 in C.C.No.316 of 2009 on the file of the learned Judicial Magistrate No.V, Tirunelveli and set aside the same with regard to the conditions 1 and 2 for paying cost to the witness and legal service authority.

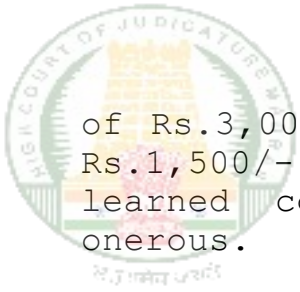
For Petitioners : Mr.S.Mani
For Respondent : Mr.K.Suyambulinga Bharathi
Government Advocate (Crl.Side)

ORDER

This criminal original petition has been filed challenging the conditions imposed by the Court below while allowing an application filed by the petitioners to re-call P.W2, P.W5 and P.W6 in order to cross examine those witnesses.

2.The learned counsel for the petitioners would submit that the petitioners are facing trial before the Court below for the offence under Sections 294(b), 323 and 506(ii) IPC @ 294(b), 325 and 506(ii) IPC. The learned counsel for the petitioners further would submit that totally 6 witnesses were examined by the prosecution in this case out of which the petitioners have cross examined 3 of the witnesses and they were not able to cross examine only P.W2, P.W5 and P.W6, who were only examined in chief.

3.The learned counsel for the petitioners would further submit <https://heservices.ecourts.gov.in/heservices/> that the petitioners are very poor people and the Court below has imposed a very heavy cost to each of the petitioners to pay a sum



of Rs.3,000/- to each of the witnesses and also to pay a sum of Rs.1,500/- to the Legal Service Authority. According to the learned counsel for the petitioners, the said condition is onerous.

4.The learned Government Advocate (Crl.Side) would submit that the Court below has taken into consideration the fact that the witnesses, who were sought to be recalled, were examined in the year 2012 and 2014 and since the re-call petition was filed only in the year 2018, the Court below was right in imposing the cost.

5.The learned Government Advocate (Crl.Side) further would submit that the examination of all the witnesses is completed and the case is at the stage of questioning under Section 313 Cr.P.C.

6.This Court has carefully considered the submissions made on either side.

7.This Court is of the considered view that the cost imposed by the Court below for each of the petitioners is on the higher side. Therefore, this Court deems it fit to modify the conditions imposed by the Court below:

"The order of the Court below is modified to the extent that each of the petitioner shall pay a sum of Rs.1,000/- to each of the witnesses and also pay a sum of Rs.1,000/- to the legal service authority."

8.In the result, the order of the Court below is modified and the criminal original petition is allowed to the extent indicated herein above.

Sd/-

Assistant Registrar (CS-II)

/True Copy/

Sub Assistant Registrar (CS-I)

To

1. The Judicial Magistrate No.V, Tirunelveli.
2. The Inspector of Police,
Maanur Police Station,
Tirunelveli District.
3. The Additional Public Prosecutor,
Madurai Bench of Madras High Court, Madurai.

+ 1 CC TO Mr.S.MANI, ADVOCATE IN SR No. 90395

MM

TE/SV/SAR-1 : 01/11/2018 : 2P/5C