

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 10.01.2019

CORAM:

THE HONOURABLE MR. JUSTICE N.ANAND VENKATESH

Crl.O.P.No. 884 and 917 of 2019

and

Crl.M.P.No. 566 and 597 of 2019

1.Arulraj

2.Chelladurai

... Petitioners in
Crl.O.P.No.884 of 2019

Chandralekha

... Petitioner in
Crl.O.P.No.917 of 2019

Vs.

State by

Inspector of Police,

North All Women Police Station,

Tirupur,

Tirupur District.

(Crime No.9 of 2018)

... Respondent in both Crl.O.Ps

COMMON PRAYER: Criminal Original Petitions filed under Section 482 Cr.P.C., to set aside the order made in C.M.P.Nos.10160 and 10161 of 2018 respectively in C.C.No.231 of 2018 dated 13.12.2018 on the file of the Judicial Magistrate No.I, Tirupur.

For Petitioners in both Crl.O.Ps.: Mr. C.Veerarahavan

For Respondent in both Crl.O.Ps : Mr.M.Mohamed Riyaz

Additional Public Prosecutor

COMMON ORDER

These Criminal Original Petitions have been filed challenging the order passed by the Court below, dismissing the petitions filed under Section 311 of Cr.P.C., to recall P.Ws. 1 to 8 for cross-examination.

2. The petitioners are facing trial before the Court below for an offence under Section 294(b), 498(A), 494, 506 (ii) IPC. The prosecution examined eight witnesses and the prosecution side evidence was completed on 24.09.2018. None of the witnesses were cross-examined by the petitioners.

3. The petition came to be filed for recall and cross-examination of P.Ws.1 to 8 on 29.10.2018. This petition was dismissed by the Court below, mainly on the ground that the

petitioners ought to have cross-examined the prosecution witnesses on the same day they were examined in chief. For this purpose, the Court below relied upon the reported Judgment in 2015(3) SCC 220 [Vinoth Kumar Vs State of Punjab].

4. The learned counsel for the petitioner would submit that the petitioners did not drag on the proceedings and the Calendar Case itself is of the year 2018 and therefore one last opportunity can be given to the petitioners to recall and cross-examine the prosecution witnesses. The learned counsel for the petitioners would further submit that the petitioners will confine the cross-examination to only witnesses P.Ws. 1 to 3 and 8.

5. Considering the facts and circumstances of the case, this Court is inclined to give one last opportunity to the petitioners to cross-examine four witnesses namely P.Ws.1 to 3 and 8.

6. The order passed by the Court below in C.M.P.No.10161 of 2018 dated 13.12.2018 is hereby set aside. The Court below is directed to issue summons to P.Ws.1 to 3 and 8. The petitioners will have to be cross-examined these witnesses on the very same day, they appear before the Court below. If for any reason, the petitioners fail to cross-examine any of the witnesses, the petitioners shall forfeit their right to recall the witnesses in future.

7. In the result, these Criminal Original Petitions are allowed and the Court below is directed to complete the proceedings within a period of six months from the date of receipt of copy of this order. Consequently, the connected Miscellaneous Petitions are closed.

s/d-

Assistant Registrar (CS VI)

True Copy

Sub-Assistant Registrar

lpp/vsa
To

1. The Inspector of Police,
North All Women Police Station,
Tirupur,
Tirupur District.

WEB COPY

2.The Public Prosecutor,
High Court of Madras,
Madras.

3. The Judicial Magistrate No.I
Tirupur.

+2 Ccs to Mr.C. Veeraraghavan, Advocate sr 2703 & 2704.

Crl.O.P.No. 884 and 917 of 2019
and
Crl.M.P.No. 566 and 597 of 2019

RK(CO)
SP(28/01/2019)



WEB COPY