

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 05.04.2019

CORAM
THE HONOURABLE MR. JUSTICE G.K.ILANTHIRAIYAN

Crl.O.P.No.3912 of 2019

Malarkodi

...Petitioner

-Vs-

1.Deivanani
2.Manga
3.Kamsala
4.Vasanthi
5.Madan
6.Sankar
7.Mani
8.Chinnasamy

... Respondents

Prayer: Criminal Original petition filed under Section 482 of the Code of Criminal Procedure, to call for the records made in Crl.M.P.No.415 of 2018 in S.C.No.92 of 2012 dated 24.12.2018 on the file of Sessions Judge, Fast Mahila Court, Dharmapuri and set aside the same.

For Petitioner : Mr.R.Sankarasubbu

For Respondents : No appearance

ORDER

This Criminal Original Petition has been filed to set aside the order dated 24.12.2018, passed by the learned Sessions Judge, Mahila Court, Dharmapuri in Crl.M.P.No.415 of 2018 in S.C.No.92 of 2012 thereby dismissed the petition filed by the petitioner under Section 311 of Cr.P.C. to recall P.W.1 to P.W.3 for the purpose of cross examination.

2. The learned counsel for the petitioner submitted that the petitioner is the complainant in this case. The petitioner filed Crl.M.P.No.415 of 2018 filed under Section 311 Cr.P.C seeking to cross-examine the further witnesses on the side of the petitioner/complainant. The Trial Court erred in dismissing the petition on the ground that the reasons stated in the petitioner is not valid and sufficient and the case is pending for more than five years. The trial court ought to have taken cognizance of the case under Section 326 of I.P.C and the non-examination of further examination on the side of the

prosecution will cause great prejudice to the petitioner/complainant. Therefore one more opportunity may be given to the petitioner to put fourth his defence. Therefore, he prays to allow this petition.

3. Heard Mr.R.Sankarasubbu, the learned counsel for the petitioner and perused the materials available on record. There is no representation on the side of the respondents.

4. Considering the facts and circumstances of the case, this Court feels that the petitioner may be given one more opportunity to put fourth his defence. Accordingly, the order dated 24.12.2018, passed by the learned Sessions Judge, Mahila Court, Dharmapuri in CrI.M.P.No.415 of 2018 in S.C.No.92 of 2012, is hereby set aside and the petitioner is permitted to cross examine P.W.1 to P.W.3 on a single day to be fixed by the Trial Court on payment of necessary charges. If the petitioner failed to cross-examine P.W.1 to P.W.3 on the date fixed by the Trial Court, the trial Court is directed to proceed with trial in accordance with law.

5. With the above directions, this Criminal Original Petition is allowed.

Sd/-

Assistant Registrar(CO)

//True Copy//

Sub Assistant Registrar

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To

1. The Sessions Judge,
Mahila Court, Dharmapuri

2. The Public Prosecutor,
High Court, Madras.

+1cc to Mr.R.Sankarasubbu, Advocate, S.R.No.33592

RGN(CO)

RRS(11/04/2019)

CrI.O.P.No.3912 of 2019

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