

IN THE HIGH COURT OF JUDICATURE AT MADRAS
DATED: 21.02.2019
CORAM:
THE HONOURABLE MR. JUSTICE G.K.ILANTHIRAIYAN
Crl.O.P.No.4618 of 2019
and Crl.M.P.No.2734 of 2019

Sivasubramaniyan

... Petitioner

Vs.

The State represented by the
Inspector of Police,
North All Women Police Station,
Tiruppur.

... Respondent

Prayer: Criminal Original Petition filed under Section 482 Cr.P.C. to set aside order made in C.M.P.No.10910 of 2018 dated 27.12.2018 in C.C.No.178 of 2018 order passed by learned Judicial Magistrate No.1, Tiruppur District.

For Petitioner : Mr.R.C.Srinivasan
For Respondent : Mr.M.Mohamed Riyaz,
Additional Public Prosecutor.

O R D E R

This Criminal Original Petition has been filed challenging the order made in C.M.P.No.10910 of 2018 dated 27.12.2018 in C.C.No.178 of 2018 made by the learned Judicial Magistrate No.1, Tiruppur District, thereby dismissed the application under Section 311 of Cr.P.C.

2.The learned counsel for the petitioner submitted that the Magistrate has taken cognizance as against the petitioner for the offences under Sections 417 r/w 506(i) of IPC. The prosecution witnesses P.W.1 to P.W.8 and P.W.11 were examined in chief on 28.11.2018. Unfortunately, the counsel for the petitioner did not appear on the date of cross examination of the prosecution witnesses. Therefore, he prays for setting aside the order passed by the Court below.

3.Heard Mr.R.C.Srinivasan, the learned counsel for the petitioner and Mr.Mohamed Riyaz, learned Additional Public Prosecutor for the respondent.

4.It is seen that the learned Trial Judge dismissed the application filed under Section 311 of Cr.P.C., for the reason

that the counsel for the petitioner did not examine the prosecution witnesses on the date of chief examination and further observed that even, the learned counsel for the petitioner failed to defer the witnesses for cross examination. However, it is seen from records that the case is of the year 2018 and on the date of chief examination of the prosecution witnesses, the learned counsel for the petitioner was not present and did not cross examine the witnesses.

5.Considering the above facts and circumstances, this Court feels it appropriate that the petitioner may be given one more opportunity to cross examine the prosecution witnesses. The learned counsel for the petitioner submitted that the case is posted for cross examination of prosecution witnesses on 25.02.2019 in the Court below. Therefore, this Criminal Original Petition is allowed and the order dated 27.12.2018 passed in Cr.M.P.No.10910 of 2018 in C.C.No.178 of 2018 by the learned Judicial Magistrate-I, Tiruppur is set aside. The petitioner is permitted to cross examine the P.W.1 to P.W.8 and P.W.11 on 25.02.2019 and thereafter the learned Judicial Magistrate is directed to proceed with the trial in accordance with law. Consequently, connected miscellaneous petition is also closed.

Sd/-
Assistant Registrar

//True Copy//

Sub Assistant Registrar

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To

1.The Judicial Magistrate-I,
Tiruppur.

2.-do-Thro The Chief Judicial Magistrate,
Tiruppur.

3. The Inspector of Police,
North All Women Police Station,
Tiruppur.

4.The Public Prosecutor,
High Court, Madras.

+lcc to Mr.R.C.Srinivasan, Advocate, S.R.No.15828

CrI.O.P.No.4618 of 2019

GJ(CO)
GSP(22/02/2019)