

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 22.02.2019

CORAM

THE HONOURABLE MR. JUSTICE G.K.ILANTHIRAIYAN

Crl.O.P.No.4837 of 2019

Manimuthu

...Petitioner

-Vs-

The State rep. by
The Inspector of Police,
W-26, All Women Police Station,
Ashok Nagar, Chennai.

... Respondent

Prayer: Criminal Original petition filed under Section 482 of the Code of Criminal Procedure, to set aside the dismissal order passed by the Sessions Judge Mahila Court at Chennai at Crl.M.P.No.20730 of 2018 in S.C.NO.249 of 2018 dated 30.11.2018.

For Petitioner : Mr.G.Ashok Kumar

For Respondent : Mr.M.Mohamed Riyaz
Additional Public Prosecutor

ORDER

This Criminal Original Petition has been filed to set aside the order dated 30.11.2018, passed by the learned Sessions Judge, Mahila Court, Chennai in Crl.M.P.No. 20730 of 2018 in S.C.No.249 of 2018 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 sole accused in this case. Totally there are four witnesses have been examined by the prosecution and due to the inconvenience of the learned counsel appearing for the petitioner, while examining P.W.1 in chief, the petitioner could not cross-examine P.W.1, on the date of chief examination itself. Further he submitted that P.W.2 to P.W.4 are concerned they cross examined in full. P.W.1 is the victim girl and she has to necessarily cross examine. Therefore one more opportunity may be given to the petitioner to put fourth his defence. Therefore, he prays to allow this petition.

3. The learned Additional Public Prosecutor would submit that all the witnesses have been examined and the case is posted for arguments on 05.03.2019. Hence, he prayed for dismissal of this petition.

4. Heard Mr.G.Ashok Kumar, the learned counsel for the petitioner and Mr.M.Mohamed Riyaz, learned Additional Public Prosecutor for the respondent.

5. The petitioner is a sole accused in this case. P.W.1 is the victim girl and there are totally four witnesses in this case. The petitioner cross examined P.W.2 to P.W.4 and the case is posted for arguments on 05.03.2019. The petitioner is being a sole accused, the victim girl has to be necessarily cross examined by the petitioner.

6. 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 30.11.2018, passed by the learned Sessions Judge, Mahila Court, Chennai in CrI.M.P.No.20730 of 2018 in S.C.No.249 of 2018, is hereby set aside and the petitioner is permitted to cross examine P.W.1 on the next hearing date by payment of necessary charges. If the petitioner failed to cross-examine P.W.1, the trial Court is directed to proceed with trial in accordance with law.

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

rts

Sd/-
Assistant Registrar(CS IV)

//True Copy//

सत्यमेव जयते

Sub Assistant Registrar

To

1. The Sessions Court,
Mahila Court at Chennai
2. The Inspector of Police,
W-26, All Women Police Station,
Ashok Nagar, Chennai.

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3. The Public Prosecutor,
High Court, Madras.

+1cc to Mr.G.Ashok Kumar, Advocate, SR.NO.16523

Cr1.O.P.No.4837 of 2019

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