

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 23.04.2019

CORAM:

THE HONOURABLE MR. JUSTICE G.K.ILANTHIRAIYAN

Crl.O.P.No.5935 of 2019

1.Venkatesan
2.E.Manikandan

...Petitioners

-Vs-

State represented by,
The Inspector of Police,
Town Police Station,
Thiruvannamalai District

.... Respondent

Prayer: Criminal Original Petition filed under Section 482 of Cr.P.C. praying to set aside the order dated 23.01.2019 passed by the learned Sessions Judge, Fast Track Mahila Court, Tiruvannamalai in Crl.M.P.No.916 of 2018 in S.C.No.111 of 2018 firstly to give opportunity to cross examine the PW2 Alena.

For Petitioners : Mr.B.R.Shankaralingam

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

ORDER

The criminal original petition has been filed to set aside the order dated 23.01.2019 passed by the learned Sessions Judge, Fast Track Mahila Court, Tiruvannamalai in Crl.M.P.No.916 of 2018 in S.C.No.111 of 2018.

2.The learned counsel for the petitioners would submit that during the course of trial in S.C.No.111 of 2018 on the file of the learned Sessions Judge, Fast Track Mahila Court, Tiruvannamalai, PW2, the victim girl was examined in chief on 14.12.2018 and only due to lack of time, the cross examination was deferred and the case was adjourned to 17.12.2018. While being so, the prosecution filed a petition under Section 311 Cr.P.C. to recall PW2 only to fill up the lacuna, which was allowed by the court below without considering that PW2 was already examined in chief for four hours. Hence, the present petition has been filed against the said order dated 23.01.2019.

3. The learned Additional Public Prosecutor would submit that even though PW2 was examined on 14.12.2018, thereafter only to adduce material evidence, to recall PW2 the petition under Section 311 Cr.P.C. was filed and after considering the contentions of the prosecution, the trial court rightly allowed the petition. As such there is no illegality in the order passed by the court below.

4. It is seen that PW2, who is the victim girl, was examined in chief on 14.12.2018 and thereafter the matter was adjourned. When the accused persons are ready to cross examine the victim girl, the prosecution has filed the petition to recall PW2, and the same was allowed by the court below.

5. It is seen that only examination of PW2 was over and before the cross examination of PW2, recall petition was filed and the same was allowed. As such no prejudice would be caused to the accused persons if the recall petition is allowed. Therefore, there is no irregularity or illegality in the order passed by the court below and this Court finds no merits in this petition. However, the trial court is directed to complete the entire examination of PW2 including cross examination on the date fixed by the trial court for the examination of PW2.

6. With the above direction, this Criminal Original Petition is dismissed.

Sd/-

Assistant Registrar(Insp.Cell)

//True copy//

Sub Assistant Registrar

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To

1.The Inspector of Police,
Town Police Station,
Thiruvannamalai District

2.The Sessions Judge,
Fast Track Mahila Court, Tiruvannamalai

3.The Additional Public Prosecutor, High Court of Madras

+1cc to Mr.B.R.Shankaralingam, Advocate SR.No.39787

Cr1.O.P.No.5935 of 2019

RSY(CO)
GMY(27/04/2019)