

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 08.03.2019

CORAM:

THE HONOURABLE MR.JUSTICE G.K.ILANTHIRAIYAN

Crl.O.P.No.6260 of 2019
and
Crl.M.P.No.3464 of 2019

1.G.Parthiban

2.S.Victor ... Petitioners
Vs.

State Rep.by:-
The Inspector of Police,
Mamallapuram Police Station,
Chengalpattu District. ... Respondent

Prayer: Criminal Original Petition is filed under Section 482 of Criminal Procedure Code, to set aside the order dated 05.01.2019 of the Mahila Court, Chengalpattu in Crl.M.P.No.2089 of 2018 in S.C.No.106 of 2010 on its file, dismissing the petition under Section 311 Cr.P.C., and direct that P.W.19 Savari Muthu and P.W.20 Senthil Kumar be recalled for the purpose of Cross-examination by the accused/petitioners.

For Petitioners : Mr.A.Ragunathan, Senior Counsel
for Mr.S.Kartik

For Respondent : Mr.C.Raghavan GA (Crl.Side)

O R D E R

This petition has been filed to set aside the order passed by Mahila Court, Chengalpattu in Crl.M.P.No.2089 of 2018 in S.C.No.106 of 2010 dated 05.01.2019, thereby dismissing the petition filed under Section 311 Cr.P.C., and for a direction to recall and to cross-examine P.W.19 and P.W.20.

2.The learned Senior counsel for the petitioner submitted that all the witnesses namely P.W.1 to P.W.18 were Cross-examined. Unfortunately, during the examination of P.W.19 and P.W.20, the accused were not present on that day. Therefore, they could not cross-examine P.W.19 and P.W.20. Without considering the facts and circumstances, the trial Court dismissed the petition stating that the reasons assigned by the petitioners are not believable. Therefore, he prayed to set

aside the same and sought permission to cross examine P.W.19 and P.W.20.

3.The learned Government Advocate submitted that so far the prosecution examined P.W.1 to P.W.20, out of which P.W.19 and P.W.20 were not cross-examined on the date of chief examination. The present petition has been filed only to drag on the proceedings.

4.Since the case is pending from the year 2010, hence he vehemently opposed the prayer and sought for the dismissal of this petition.

5.Heard, the learned Senior Counsel for the petitioner and learned counsel for the respondent.

6.It is seen that the petition filed under Section 311 of Cr.P.C., to cross-examine P.W.19 and P.W.20, same was dismissed by the trial Court. It is seen that on the date of chief examination of P.W.19 and P.W.20 namely Savari Muthu and Senthil Kumar respectively on 14.11.2017 and 07.02.2018 they were not cross-examined by the petitioners counsel. The reason stated in the petition is that the counsel for the petitioners did not appear on that day and the counsel was hospitalized. It is also seen that due to inconvenience of the learned counsel for the petitioners, the petitioners could not cross-examine P.W.19 and P.W.20.

7.Considering the facts and circumstances, the petitioners have to be given one more opportunity to cross-examine P.W.19 and P.W.20. Accordingly, order passed by the Mahila Court, Chengalpattu is set aside and the petitioners are permitted to cross-examine P.W.19 and P.W.20 on payment of necessary charges and the trial Court is directed to issue summons to P.W.19 and P.W.20 and fix the date for cross-examination. If the petitioners fails to cross-examine on the date fixed by the trial Court, the trial Court is directed to proceed with the trial in accordance with law.

8.Accordingly, criminal original petition is allowed. Consequently, connected miscellaneous petition is closed.

Sd/-
Assistant Registrar(CCC)

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Sub Assistant Registrar

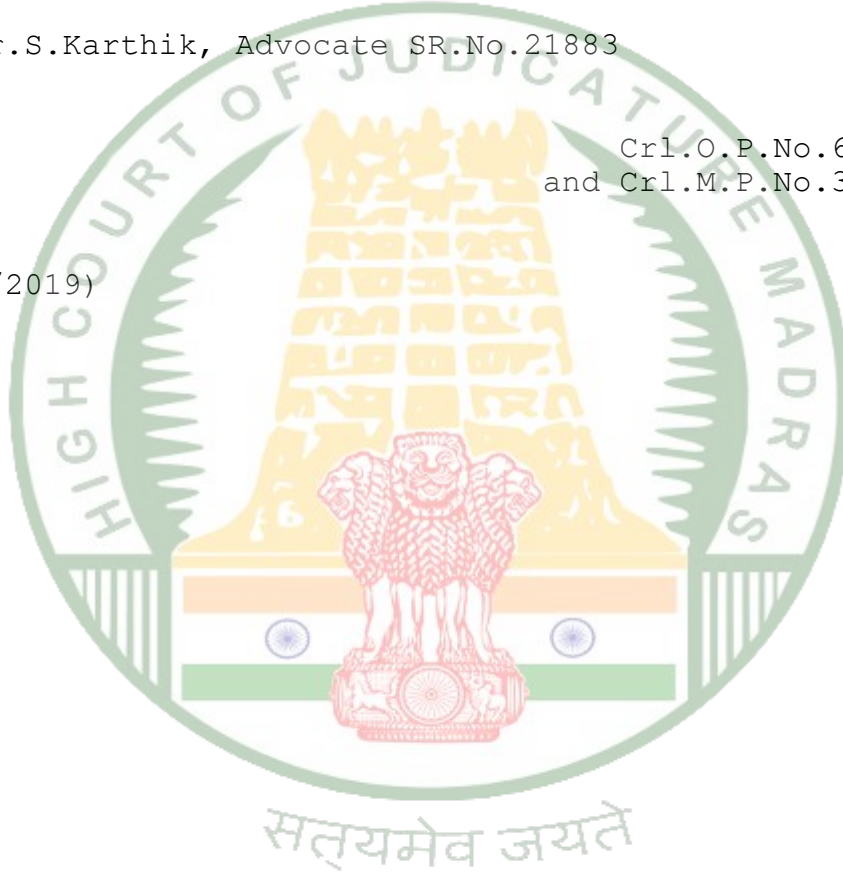
AT

To

- 1.The Inspector of Police,
Mamallapuram Police Station,
Chengalpattu District.
 - 2.The Government Advocate,
High Court, Madras.
 3. Mahila Court, Chengalpattu.
 4. The Public Prosecutor, High Court, Madras
- +lcc to Mr.S.Karthik, Advocate SR.No.21883

CrI.O.P.No.6260 of 2019
and CrI.M.P.No.3464 of 2019

AK(CO)
GMY(20/03/2019)



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