

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 03.06.2019

CORAM

THE HONOURABLE MR.JUSTICE N. ANAND VENKATESH

Crl.O.P.No.12048 of 2019

Yazar Arafat

... Petitioner

Vs.

State Rep. by its
The Inspector of Police,
B-4, Race Course Police Station,
Coimbatore.

... Respondent

PRAYER : Criminal Original Petition is filed under Section 482 of the Code of Criminal Procedure, to call for the records relating the order dated 25.03.2019 made in C.M.P.No.1 of 2019 in S.C.No.37 of 2016 on the file of Learned IVth Additional District and Sessions Judge, Coimbatore and set aside the same.

For Petitioner : Mr.Kartheeban T.V.C

For Respondent : Mr.C.Raghavan
Government Advocate

ORDER

This petition has been filed challenging the order passed by the Court below allowing the petition filed by the prosecution to recall LW46 for the purpose of marking an FIR in Crime No.366 of 2013.

2. The learned counsel for the petitioner submitted that the examination of the witnesses have already been completed and the case is at the stage of final arguments and at that stage, the present petition came to be filed by the prosecution for recalling LW46 for the purpose of marking an FIR. The learned counsel further submitted that this is clearly an attempt to fill up the lacuna by the prosecution.

3. The learned Government Advocate submitted that the FIR in question is already part of the list of documents filed along with the final report and the petitioner will always have the opportunity to cross examine the witness even after marking of the document. The learned counsel further submitted that there are absolutely no grounds to interfere with the order passed by the Court below.

4. This Court has carefully considered the submissions made on either side and also perused the materials before this Court.

5. It is seen from records that the FIR in Crime No.366 of 2013 which is sought to be marked, has been cited in the list of documents relied upon by the prosecution and was filed along with the final report. A copy of this document has already been furnished to the petitioner under section 207 of Cr.PC at the stage of committal. Therefore, there is no question of the prosecution attempting to fill up the lacuna in this case and by over site the prosecution had merely left this FIR from being marked while examining LW46.

6. That apart, the petitioner will always have right to cross examine the witness even after the document is marked through LW46 and it is not as if the petitioner has lost his right of cross examination.

7. This Court does not find any illegality or infirmity in the order passed by the Court below and the Court below has correctly

N.ANAND VENKATESH.,J

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exercised its jurisdiction under Section 311 of Cr.PC.

8. In the result, this Criminal Original Petition is dismissed and the Court below is directed to complete the proceedings within a period of two months from the date of receipt of copy of this order. Consequently, connected miscellaneous petition is also closed.

03.06.2019

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Index: Yes/No

Internet: Yes/No

To

1. The Inspector of Police,
B-4, Race Course Police Station,
Coimbatore.
2. The Public Prosecutor,
High Court, Madras.

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