

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED 26.04.2019

CORAM

THE HONOURABLE Mr.JUSTICE G.K.ILANTHIRAIYAN

Crl.O.P.No. 11394 of 2019
and Crl.M.P.No.5879 of 2019

1.Kanagaraj
2.Rajadurai
3.Ganesan

.. Petitioners

Vs.

State rep. By its
The Inspector of Police,
Yercaud Police Station,
Salem District.

.. Respondent

Prayer: Criminal Original Petition is filed under Section 482 of Criminal Procedure Code, to set aside the order dated 26.03.2019 in Crl.M.P.No.4 of 2019 in S.C.No.88 of 2018 on the file of learned Sessions Judge, Mahila Court, Salem.

For Petitioner : Mr.L.Mouli

For Respondent : Mr.C.Raghavan

Government Advocate (Criminal Side)

O R D E R

This Criminal Original Petition has been filed challenging the order passed by the Court below in Crl.M.P.No.4 of 2019 in S.C.No.88 of 2018 dated 26.03.2019 on the file of the learned Sessions Judge, Mahila Court, Salem, thereby dismissing the petition filed by the petitioners under section 311 of Cr.P.C. to recall P.Ws.1 and 18.

2. The learned counsel for the petitioner submitted that the petitioners are facing trial before the learned Sessions Judge, Mahila Court, Salem. The prosecution has examined 18 witness as P.W.1 to P.W.18 and their evidence was recorded by the court below on different days and on those days, the learned counsel appearing for the petitioners herein did not appeared before the Court below without any reasons and therefore, the prosecution witnesses viz., P.W.1 to P.W.18 were not cross examined and when the case was posted for questioning

under Section 313 of Cr.P.C, the petitioners engaged another counsel and filed a petition in CrI.M.P.No.4 of 2019 to recall the prosecution witnesses for cross-examination and the same was dismissed on 26.03.2019. Hence, the petition.

3. Heard the submissions of the learned Government Advocate (Criminal Side) and perused the materials.

4. Considering the above facts and circumstances of the case, the order in CrI.M.P.No.4 of 2019 in S.C.No.88 of 2018 dated 26.03.2019 passed by the learned Sessions Judge, Mahila Court, Salem is hereby set aside. The petitioner shall cross examine P.W.1 to P.W.18 on the date fixed by the Trial Court for cross examination and the same day itself. If for any reason the petitioners fail to cross examine P.W.1 to 18 on the same day, the petitioners shall forfeit their right to recall P.W.1 and P.W.18 for cross examination in future. The petitioners shall pay a necessary cost to the witnesses, failing which, the learned Magistrate is directed to proceed with the trial on merits and in accordance with law. Thereafter, the trial Court is directed to complete the trial within a period of six months from the date of completion of the cross examination of the prosecution witnesses.

5. Accordingly, this Criminal Original Petition is allowed. Consequently, connected Miscellaneous Petition is closed.

s/d-
Assistant Registrar

True Copy

Sub-Assistant Registrar

mpa

To

1.The Sessions Judge,
Mahila Court,
Salem.

2.The Inspector of Police,
Yercaud Police Station,
Salem District.

3.The Public Prosecutor,
High Court, Madras.

CrI.O.P.No. 11394 of 2019
and CrI.M.P.No.5879 of 2019

RSV (CO)
SP(31/05/2019)