

IN THE HIGH COURT OF JUDICATURE AT MADRAS
DATED : 12.06.2019
CORAM
THE HONOURABLE MR. JUSTICE N. ANAND VENKATESH
Crl.O.P No.14853 of 2019

Bhaskar

Petitioner

vs.

The State by,
The Sub Inspector of Police,
Vellakovil Police Station,
Thiruppur District.
(Crime No.373 of 2013)

Respondent

PRAYER: Criminal Original Petition filed under Section 482 of the Code of Criminal Procedure, to Set-Aside the order passed in Crl.M.P.No.25 of 2019 in S.C.No.116 of 2015 dated 16.04.2019 by the III Additional District and Sessions Judge, Thiruppur at Dharapuram and further direct the respondent to give the documents sought for by the petitioner in the 91 Cr.P.C. Petition.

For Petitioner : Mr.S.Silambu Selvan

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

ORDER

This petition has been filed against the order passed by the Court below wherein an application filed under Section 91 of Cr.P.C. by the petitioner was partly allowed and the petitioner was permitted to call for Document Nos.4 and 5 and was not permitted to call for documents 1 to 3.

2.The petitioner is facing trial before the Court below for an offence under Section 302 of IPC. The prosecution has examined 19 witnesses and they have also been cross-examined and the case was at the stage of examination of the defense witnesses. At that stage the petitioner had filed application under Section 91 of Cr.P.C. and sought for the following documents:

- i. The AR Copy of the deceased Kittusamy given at ***Thiruppur** Government Hospital dated 18.11.2013.
- ii. The treatment taken details of the deceased Kittusamy at ***Thiruppur** Government Hospital dated 18.11.2013.

- iii. The Copy of the complaint received from the deceased Kittusamy by PW 11 Sellamuthu (Sub-Inspector)
- iv. The 161(3) Cr.P.C statement of the PW 11 (Sub-Inspector)
- v. The requisition letter given by the PW 17 (I.O) to the Postmortem Doctor (Chief), Kovai Medial College Hospital, Coimbatore.

3. The petitioner wanted to call for these documents in order to establish his defence and in order to prove his innocence.

4. The Court below, examining the petition filed by the petitioner, thought it fit to permit the petitioner to call for only two documents and rejected the petition insofar as the remaining three documents are concerned.

5. Heard the learned counsel for the petitioner and the learned Additional Public Prosecutor appearing on behalf of the respondent police.

6. On consideration of the facts and circumstance of the case, this Court is of the considered view that the petitioner is facing a serious charge for an offence under Section 302 of IPC. Therefore, sufficient opportunity must be given to the petitioner to place all the materials before the Court in order to defend himself and prove his innocence. The Court below having taken into consideration the fact that the petitioner has to be given an opportunity to produce certain documents must have permitted the petitioner to produce all the documents sought for by him. The Court below ought not to have compartmentalised the same by partly allowing the petition.

7. In the result the order passed by the Court below in Cr1.M.P.No.25 of 2019 dated 16.04.2019 is set aside in so far as the portion rejecting certain documents to be produced under Section 91 of Cr.P.C. The application filed by the petitioner under Section 91 of Cr.P.C is allowed in toto and all the five documents shall be called for in order to enable the petitioner to effectively defend himself in the trial.

8. In the result this Criminal Original Petition is allowed and the Court below is directed to complete the proceedings in S.C.No.116 of 2015 within a period of three months from the date of receipt of a copy of this order.

Sd/-
Assistant Registrar(CS)

*Para 2 of this order amended
as per order of this Court
dated 23/9/2019 in CrI MP 13577/2019
in CrI.O.P.No.14853 of 2019
Sd/-
Assistant Registrar
Dated:10/10/2019

//True Copy//

Sub Assistant Registrar

ssr
To

1. The III Additional District and Sessions Judge, Thiruppur, Dharapuram
Amended order to be substituted to the order already despatched on 13/08/2019
2. The Sub Inspector of Police, Vellakovil Police Station, Thiruppur District.
3. The Public Prosecutor, High Court of Madras, Madras.

+1cc to Mr.S.Silambu Selvan , Advocate *SR.No. 81411

CrI.O.P No.14853 of 2019

gp (CO)
A.SK(02/07/2019)
srg 11/10/2019

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