

IN THE HIGH COURT OF JUDICATURE AT MADRAS

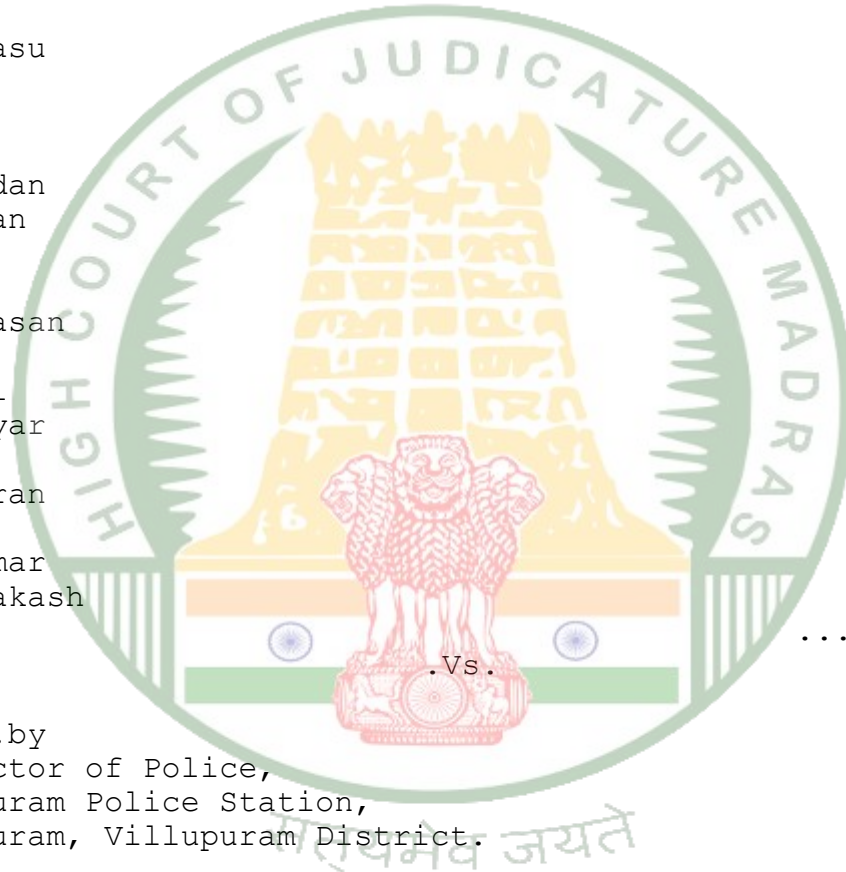
DATED : 06.08.2019

CORAM

THE HONOURABLE MR. JUSTICE N. ANAND VENKATESH

Crl.OP No.21185 of 2019
and
Crl.MP.No.10979 of 2019

1.Thangarasu
2.Jayapal
3.Kumar
4.Perumal
5.Manikandan
6.Narayanan
7.Sekar
8.Raja
9.Ezhilarasan
10.Ramar
11.Senthil
12.Mottaiyar
13.Vedan
14.Gajendran
15.Mani
16.Jayakumar
17.Jayaprakash



...Petitioners

State Rep.by
The Inspector of Police,
Sankarapuram Police Station,
Sankarapuram, Villupuram District.

..
Respondent

PRAYER: Criminal Original Petition filed under Section 482 of the Code of Criminal Procedure, to set aside the order dated 20.06.2019 passed in Crl.MP.No.819 of 2019 in S.C.No.225 of 2015, on the file of the learned Special District Judge, SC/ST Act, Villupuram.

For Petitioners : Mr.A.Saravanan

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

ORDER

This Criminal Original Petition has been filed challenging the order passed by the Court below imposing a condition of payment of Rs.1000/- towards cost to each of the witness, to recall and cross examine PW-1 to PW-28.

2.The petitioners are facing trial before the Court below for an offence under Section 147, 148, 341, 323, 324, 336 & 307 IPC r/w Section 3(1)(x) of the SC/ST Act, r/w 149 IPC. The prosecution had examined 28 witnesses from the year 2014 onwards and none of these witnesses were cross examined by the petitioners.

3.The petitioners at last filed a petition in the year 2019, to recall PW-1 to PW-28 for cross examination. The Court below was benevolent enough to allow the petition by imposing a cost of Rs.1000/- to each of the witness at the time of their appearance. This condition has been put to challenge before this Court.

4.The learned counsel for the petitioners submitted that the Court below has imposed an onerous condition and the petitioners will have to pay nearly Rs.28,000/- to all the 28 witnesses put together and the petitioners are not in a position to comply with the said condition.

5.The learned Additional Public Prosecutor submitted that the Court below was right in imposing such a condition since none of the witnesses were cross examined by the petitioners and the case is pending from the year 2015 onwards.

6.This is yet another unfortunate case where a 311 petition has been filed in a very casual manner. The prosecution has examined 28 witnesses and none of these witnesses were cross examined by the petitioners. In the 311 petition filed before the Court below, the only reason that has been given for not cross examining the witnesses was that the counsel appearing for the petitioners had some personal work. Apart from this reason, there is no other reason assigned in the petition filed under Section 311 of Cr.P.C. The petition which has been filed in such a reckless manner ought to have dismissed by the Court below. However, the Court below was taking into consideration the seriousness of the offences for which the petitioners are facing trial and thought it fit to afford one last opportunity to the petitioners to recall and cross examine PW-1 to PW-28. The Court below had imposed a cost of Rs.1000/- to be paid to each of the witness on the date of

their appearance. This Court does not find any reason to interfere with the said condition. For the conduct of the petitioners, they have to pay this price if they want to effectively defend themselves before the Court below.

7.In the result, the order passed by the Court below is confirmed and the Criminal Original Petition is dismissed, and the Court below is directed to complete the proceedings in S.C.No.225 of 2015, within a period of four months from the date of receipt of copy of the order. Consequently, connected miscellaneous petition is closed.

Sd/-
Assistant Registrar(J)

//True Copy//

Sub Assistant Registrar

KP

To

- 1.Special District Judge,
SC/ST Act, Villupuram.
2. The Inspector of Police,
Sankarapuram Police Station,
Villupuram District.
- 3.The Public Prosecutor,
High Court of Madras,
Madras.

+1cc to Mr.A.Saravanan, Advocate Sr.67757

Cr1.OP No.21185 of 2019

srg 30/08/2019

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