

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 28.08.2019

CORAM

THE HONOURABLE MR. JUSTICE N. ANAND VENKATESH
Crl.OP No.23325 of 2019

Suyamburaj

...Petitioner

.Vs.

State Rep.by

The Inspector of Police,

R-1 Mambalam Police Station (L&O),

Chennai.

...Respondent

PRAYER: Criminal Original Petition filed under Section 482 of the Code of Criminal Procedure, to call for the records pertaining to the order of dismissal dated 04.10.2018 passed by the Sessions Judge, Mahila Court, Chennai, in Crl.M.P.No.16163 of 2018 in S.C.No.169/2015 on the file of the Sessions Judge, Mahila Court, Chennai and set aside the same.

For Petitioner : Mr.C.Subramanian

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

ORDER

This Criminal Original Petition has been filed challenging the order passed by the Court below, partly allowing the application filed by the petitioner u/s 311 of Cr.P.C., by recalling certain witnesses for cross examination and dismissing the application insofar as the other witnesses are concerned.

2.The learned counsel for the petitioner submitted that pursuant to the orders passed by the Court below, the petitioner had cross examined the witnesses who were recalled by the Court below. During the course of cross examination, certain answers were elicited from the witnesses, and therefore it became necessary for the petitioner to recall certain other witnesses. In view of the earlier order passed by the Court below, the petitioner is not in a position to file

a fresh application under Section 311 of Cr.P.C., and therefore, the present petition has been filed before this Court challenging the original order passed by the trial Court on 04.10.2018.

3.This Court is not in agreement with the submission made by the learned counsel for the petitioner. The petitioner has accepted the order passed by the Court below on 04.10.2018, and has proceeded to cross examine only those witnesses who were permitted to be recalled by the Court below. Just because the petitioner was able to elicit some answers from the witnesses, that does not give a cause of action for the petitioner to challenge the order dated 04.10.2018, which admittedly has been accepted by the petitioner.

4.In the considered view of this Court, this Court does not find any ground to interfere with the order passed by the Court below in Crl.MP.No.16163 of 2018, dated 04.10.2018. If the petitioner had elicited any answers from the witnesses and that has given raise to recalling certain other witnesses for cross examination, the petitioner has to file a fresh application before the Court below by justifying the reason as to why some of the witnesses will have to be recalled.

In the result, this Criminal Original Petition is dismissed, and there shall be a direction to the Court below to complete the proceedings in S.C.No.169 of 2015, within a period of three months from the date of receipt of copy of this order.

Sd/-
Assistant Registrar(CS)

//True Copy//सत्यमेव जयते
Sub Assistant Registrar

KP
To

1.The Inspector of Police,
R-1 Mambalam Police Station (L&O),Chennai.

2.Sessions Judge,
Mahila Court, Chennai.

3.The Public Prosecutor,
High Court of Madras,Madras.

+1cc to Mr.C.Subramanian , Advocate SR.No. 73876

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spd A.SK(23/09/2019)