

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 01.10.2019

CORAM

THE HONOURABLE MR. JUSTICE M.S.RAMESH

Crl.O.P.No.23699 of 2019

and

Crl.M.P.No.12472 of 2019

K.v.Ramanujam

... Petitioner / Accused

Vs.

State rep by,
The Inspector of Police,
W-22 All Women Station,
Mylapoor, Chennai-600 004.
Crime No.18 of 2016.

... Respondent / Complainant

Prayer: Criminal Original petition filed under Section 482 Cr.P.C., to stay all further proceedings in S.c.No.124 of 2017 on the file of the learned Sessions Judge, Mahila Court, Chennai till the disposal of the above original petition and set aside the order passed by the learned Sessions Judge, Mahila Court, Chennai in Crl.M.P.No.15204 of 2019 in S.C.No.124 of 2017 dated 09.08.2019 and recall P.W.1 and P.W.4 on the same day for the purpose of cross examination

For Petitioner : Mr.N.Ananthapadmanaban
for M/s. Apn Law Associates

For Respondents : Mr.C.Iyyapparaj
Additional Public Procecutor

O R D E R

The reason for rejecting the petitioner's request under Section 311 Cr.P.C., to recall P.W.1 and P.W.4 is that these witnesses were not examined by the petitioner despite opportunity granted.

2 In this connection, the trial Court had placed reliance on the decision of the Hon'ble Apex Court in Vinoth Kumar Vs. State of Punjab (2015 (1) MLJ (Crl.) 288 wherein it has been held that the victim girl should not be repeatedly called to the Court.

3 The learned for the petitioner counsel would submit that evidences of P.W.1 and P.W.4 are crucial to the case and that only on one occasion, he could not cross examine the victim. He would further submitted that even through Vedio conference, he would comply the same and complete the cross examination on the same day.

4 Taking into account the tact that only one opportunity was given to the petitioner for cross examination of the aforesaid witnesses, it would be appropriate to extend one more final opportunity to the petitioner to cross examine P.W.1 and P.W.4.

5 In the light of the above observation, the impugned order dated 09.08.2019 is set aside. The petitioner is permitted to file an application under Section 311 Cr.P.C., before the trial Court, within a period of one week from the date of receipt of a copy of this order and on receipt of such application, the trial Court shall fix a date for cross examination of P.W.1 and P.W.4 and also ensure that the cross examination shall be completed on the same day. The trial Court is also permitted to conduct cross examination through Video conferencing. The costs of such Video Conferencing and production of witnesses shall be borne by the petitioner, which amount shall be determined by the trial Court itself.

6 With the above observations, this Criminal original Petition is disposed of accordingly. Consequently, connected Criminal Miscellaneous Petition is closed.

Sd/-

Assistant Registrar (Insp.Cell)

//True Copy//

Sub Assistant Registrar

sbn

To

1. The Inspector of Police,
W-22 All Women Station,
Mylapoor, Chennai-600 004.

2. The Sessions Judge, Mahila Court, Chennai.

3. The Public Prosecutor, High Court, Madras.

+1 cc to M/s.APN Law Associates, Advocate, S.R.No.84070

Cr1.O.P.No.23699 of 2019
and

Cr1.M.P.No.12472 of 2019

NRL (CO)

SSM(03/10/2019)