

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 19.02.2019

CORAM:

THE HON'BLE MR.JUSTICE G.K.ILANTHIRAIYAN

CRL.O.P.No.19196 of 2017
and
CRL.M.P.No.11647 of 2017

Mrs.Valliammal

... Petitioner/Victim

Vs.

1. The Deputy Superintendent of Police,
Cheyyar Sub-Division,
Cheyyar,
Thiruvanamalai District.

...Complainant/Respondent

2. Sekar

...Accused/Respondent

PRAYER: Criminal Original Petition filed under Section 482 of Cr.P.C, to set aside the order passed in Cr.M.P.No.4325/2015 on the file of the Honourable District and Sessions Judge, Tiruvanamalai, dated 9/12/2015 and allow the petition filed by Special Public Prosecutor under section 91 of Cr.P.C.

For Petitioner : Mr.C.Raj Kumar

For Respondent : Mr.M.Mohamed Riyaz for R1
Additional Public Prosecutor

Mr.B.Gopalakrishnan for R2

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O R D E R

The Criminal Original Petition has been filed to challenge the proceedings in S.C.No. 96 of 2013, on the file of the District and Sessions Judge, Tiruvannamalai, thereby requesting application filed by the prosecution under Section 91 of Cr.P.C to summon the Revenue Divisional Officer, Cheyyar to schedule mention document namely release certificate issued by the Revenue Divisional Officer.

2.The learned counsel for the petitioner would submit that the petitioner is a victim and as directed by the Director General of Police vide circular dated 17.12.2016, the concerned Revenue Divisional Officers are directed to mark vital document namely, release certificate issued by the Revenue Divisional Officer before the trial Court to prove the case in respect of bonded labour cases. Without considering the said request, the trial Court dismissed the petition for the reasons that the Revenue Divisional Officer was examined as PW1 and also cross-examined. Therefore, this petition is nothing but to fill-up the lacuna and is not maintainable in law. Therefore, the petitioner prayed to set aside the order passed by the trial Court.

3.The learned counsel for the second respondent submitted that the petitioner has no locus to file this petition as against the order passed by the trial Court. The learned Special Public Prosecutor filed a petition under Section 91 of Cr.P.C. before the trial Court on behalf of the first respondent to mark the release certificate issued by the Revenue Divisional Officer who examined as PW1. He further submitted that the petitioner had already filed a petition under Section 311 of Cr.P.C to recall PW1 and the same was dismissed by the trial Court.

4.The learned Additional Public Prosecutor vehemently opposed the petition and prayed for dismissal of petition. The learned Additional Public Prosecutor submit that the petitioner is the victim and on behalf of the first respondent an application filed under Section 91 of Cr.P.C before the trial Court to mark the release certificate issued by the Revenue Divisional Officer.

5.Further, he pointed out that on 17.12.2016, a circular has been issued by the Director General of Police, Chennai to all the Police Officials to mark the release certificate and other relevant documents supporting the bonded labour cases to strengthen the trial proceedings.

6.Heard, the learned counsel appearing for the petitioner, the learned Additional Public Prosecutor appearing for the first respondent and the learned counsel appearing for the second respondent and perused the documents available on record.

7.On a perusal of records, it is seen that the petitioner is the victim, therefore she has locus to challenge the said order passed by the trial Court. It is also seen from the circular issued by the Director General of Police, wherein it is specifically directed the investigation officer to mark the release certificate issued by the concerned Revenue Divisional Officer. In this case, though, the Revenue Divisional Officer

was already examined, the release certificate issued by him was not marked. The said document is vital to prove the case as against the second respondent. Since the petitioner is the victim, she may be given one more opportunity to mark the said vital document before the trial Court.

8. Accordingly, the order passed by the District and Sessions Judge, Tiruvannamalai in Crl.MP.No. 4325 of 2015 in S.C. No. 96 of 2013 dated 09.12.2015 is set aside and the first respondent is permitted to mark the release certificate issued by the Revenue Divisional Officer. The trial Court is directed to summon the Revenue Divisional Officer, Cheyyar, PW1 to produce the release certificate and mark the same in the next hearing date and complete the trial proceedings within a period of eight weeks from the date of receipt of copy of this order.

9. With the above directions, this Criminal Original Petition stands allowed. Consequently, connected miscellaneous petition is closed.

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Sd/-
Assistant Registrar

//True Copy//

Sub Assistant Registrar

To

1. The District and Sessions Judge,
Tiruvannamalai.
2. The Deputy Superintendent of Police,
Cheyyar Sub-Division, Cheyyar,
Thiruvannamalai District.
3. The Public Prosecutor,
High Court, Madras.
4. The Revenue Divisional Officer,
Cheyyar.

+1cc to Mr.B.Gopalakrishnan, Advocate, S.R.No.14997
+1cc to Mr.C.Raj Kumar, Advocate, S.R.No.15084

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kak (07/03/2019)