

IN THE HIGH COURT OF JUDICATURE AT MADRAS  
DATED: 26.03.2019

CORAM:  
THE HONOURABLE MR. JUSTICE G.K.ILANTHIRAIYAN

CrI.O.P.No.29286 of 2017  
and  
CrI.M.P.No.16559 of 2017

1.Babu,  
2.Unnamalai,  
3.Manimekalai,  
4.Selvaraj.

...Petitioners

-Vs-

State represented by  
Inspector of Police,  
G-2, Periamet Police Station,  
Chennai 600 003.  
(Crime No.1250 of 2012)

... Respondent

Prayer: Criminal Original petition filed under Section 482 of Code of Criminal Procedure, to set aside the order dated 13.12.2017 passed in Cr.M.P.No.16733 of 2017 in S.C.No.280 of 2013 on the file of the learned Sessions Judge, Mahila Court, Chennai, dismissing the application filed under Section 311 Cr.P.C.

For Petitioners : Mr.K.Shivakumar

For Respondent : Mr.Mohammed Riyaz  
Additional Public Prosecutor.

O R D E R

This petition has been filed challenging the order dated 13.12.2017 passed in Cr.M.P.No.16733 of 2017 in S.C.No.280 of 2013 on the file of the learned Sessions Judge, Mahila Court, Chennai, dismissing the application filed under Section 311 Cr.P.C. to examine P.W.1 to P.W.18.

2.The petitioner has been charged for the offences under Sections 417, 294 and 376 r/w 34 IPC. However, he did not cross examined any of the witnesses P.W.1 to P.W.18. Hence, he filed a petition to recall P.W.1 to P.W.18. Whereas, it is seen from the records that P.W.1 to P.W.18 were already examined as early as on 23.09.2015 by the trial Court in which P.W.7, P.W.8, P.W.10, P.W.11, P.W.13, P.W.15, P.W.16 and P.W.18, the learned counsel for the petitioners endorsed no cross after examining in chief. It is also seen that P.W.5 and P.W.9 were already turned hostile. P.W.17 was already been cross examined. Under these

circumstances, the petitioner has filed a petition under Section 311 to recall P.W.1 to P.W.18 for cross examination and the same was dismissed by the learned Sessions Judge, Mahila Court, Chennai by an order dated 13.12.2017 in Cr1.M.P.No.16733 of 2017.

3.Heard both sides.

4.Considering the facts and circumstances of the case and on perusal of records, this Court is inclined to entertain the petition filed by the petitioner. Accordingly, the order dated 13.12.2017 passed in Cr.M.P.No.16733 of 2017 in S.C.No.280 of 2013 by the learned Sessions Judge, Mahila Court, Chennai is set aside and the petitioners are permitted to cross examine P.W.1 alone. The Court below is directed to fix a date for cross examination of P.W.1 by the petitioners within a period two weeks from the date of receipt of copy of this order and on that date, the petitioners are permitted to cross examine P.W.1. If the petitioners fail to cross examine P.W.1 on that day, this order shall stand automatically cancelled and the Court below shall proceed with the trial. However, considering the year of the case i.e., 2013, the trial Court is directed to complete the trial and dispose of the matter within four months from the date of cross examination of P.W.1 by the petitioners on payment of Rs.5,000/- to P.W.1.

5.In the result, this Criminal Original Petition stands allowed. Consequently, connected miscellaneous petition is also closed.

Sd/-

Assistant Registrar

//True Copy//

Sub Assistant Registrar

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To

1.The Sessions Judge,  
Mahila Court, Chennai.

2.The Inspector of Police,  
G-2, Periamet Police Station,  
Chennai 600 003.  
(Crime No.1250 of 2012)

+1cc to Mr.K.Sivakumar, Advocate, S.R.No.29681

Cr1.O.P.No.29286 of 2017  
and  
Cr1.M.P.No.16559 of 2017

RRS (10/05/2019)