

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 04.12.2019

CORAM

THE HON'BLE MR.JUSTICE P.RAJAMANICKAM

CrI.O.P.No.30296 of 2019

and

CrI.M.P.No. 16377 of 2019

Prabhu

...Petitioner

-Vs-

The State of Tamilnadu
Rep. by the Sub-Inspector of Police,
V.Kalathur Police Station,
V.Kalathur, Perambalur District.

...Respondent

Prayer: Criminal Original Petition filed under Section 482 of Cr.P.C., to call for the records relating to order dated 24.09.2019 passed in CrI.M.P.No.1561 of 2019 in S.C.No. 31 of 2019 on the file of the Mahila (Sessions) Court, Perambalur, set aside the same and direct the Court below to allow the petitioner to re-cross PW4.

For Petitioner : Mr.P.Mani

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

ORDER

This Criminal Original Petition has been filed to call for the records relating to order dated 24.09.2019 passed in CrI.M.P.No.1561 of 2019 in S.C.No. 31 of 2019 on the file of the Mahila (Sessions) Court, Perambalur, set aside the same and direct the Court below to allow the petitioner to re-cross PW4.

2. The learned counsel for the petitioner has submitted that after cross examination of PW4 (small girl), the petitioner gathered materials that PW4 got already married to one Mohammed Isak and the said marriage was registered in Nikkah registry maintained by Nabishahib Maszid, Oldpet- Attur Town - Salem (Dist) - 636 102 and hence, sought further cross examination of PW4. He further submitted that now PW4 has attained majority but, without considering the said fact the trial Court has rejected the petitioner's claim.

3. Per contra, the learned Additional Public Prosecutor has submitted that since already PW4 was extensively cross examined, and only with a view to drag on the proceedings, the petitioner has filed a petition to recall PW4 and taking into consideration of the said fact, the trial Court had rightly rejected the petitioner's claim and hence, he strongly opposed this petition.

4. Taking into consideration of the submission made by the petitioner that he got the materials with regard to marriage of PW4 with one Mohameed Isak and in order to give an opportunity to elicit the said fact, I am inclined to allow this petition.

5. In the result, the order passed by the trial Court in CrI.M.P.No.1561 of 2019 with regard to dismissing the prayer for recalling PW4 is set aside. The trial Court is directed to summon PW4 and give an opportunity to the petitioner to cross examine the said witness. The petitioner is directed to cross examine the said witness as soon as, she appears before the Court without asking for any adjournments.

6. Accordingly, this Criminal Original Petition is allowed. Consequently, connected Miscellaneous Petition is closed.

s/d-
Assistant Registrar(J)

True Copy

Sub-Assistant Registrar

dna

To

1. The Sessions Judge, Mahila Court, Perambalur District

2.The Sub-Inspector of Police,
V.Kalathur Police Station,
V.Kalathur, Perambalur District.

3.The Public Prosecutor,
High Court, Madras.

+1 CC to Mr.P.Mani, Advocate sr 101288.

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SP(13/12/2019)