

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 17.12.2019

CORAM

THE HON'BLE MR.JUSTICE P.RAJAMANICKAM

Crl.O.P.No.33833 of 2019

Gokulan @ Gokul

...Petitioner

-Vs-

State Rep by
Inspector of Police
Papparapatty Police Station
Dharmapuri District.
(Crime No.160/2013)

... Respondent

Prayer: Criminal Original petition filed under Section 482 of Code of Criminal Procedure, to call for the records in S.C.No.70 of 2016 on the file of the Fast Track Mahila Court, Dharmapuri and set aside the order dated 02.12.2019 dismissing the order passed in Crl.M.P.No.693 of 2019.

For Petitioner : Mr.V.Sakkarapani
For Respondent : Mr.M.Mohamed Riyaz
Additional Public Prosecutor

ORDER

This petition has been filed by the accused to set aside the order passed by the Fast Track Mahila Court, Dharmapuri in Crl.M.P.No.693 of 2019 in S.C.No.70 of 2016 dated 02.12.2019.

2. The learned counsel for the petitioner has submitted that the petitioner is facing trial for the offences under Sections 448, 506(ii), 392 r/w. 397 IPC. He further submitted that in the above case on the side of the prosecution, PWs 1 to 11 were examined and the petitioner has cross examined PW10 alone. He further submitted that since the petitioner could not collect the particulars with regard to PW1, he did not cross examine the other witnesses and hence, he filed a petition under Section 311 Cr.P.C., in Crl.M.P.No.693 of 2019, but the trial Judge without giving an opportunity to the petitioner, has dismissed the said petition. He further submitted that the aforesaid witnesses are material witnesses and unless an opportunity is given to the petitioner to cross examine the other witnesses, the petitioner will be put to irreparable loss and hence, he prayed to grant one more opportunity to the petitioner to cross examine those witnesses.

3. Per contra, the learned Additional Public Prosecutor has submitted that PWs 1 to 9 were examined on 09.09.2016 itself and thereafter, PWs 11 and 12 were examined on 25.09.2019, but the petitioner, except PW10, has not cross examined all other witnesses. He further submitted that now the evidence of the prosecution is over and at this stage, with a view to drag on the proceedings, the petitioner has filed a petition under Section 311 Cr.P.C., after three years and taking into consideration of those facts the trial Court has rightly dismissed the petition and in the said order, this Court need not interfere.

4. Taking into consideration of the charges being faced by the petitioner, this Court is of the view that one more opportunity can be given to the petitioner. However, the petitioner shall be put on heavy terms.

5. In the result, this petition will be allowed on a condition that the petitioner shall deposit a sum of Rs.11,000/-, towards expenses of the witnesses to appear before the trial Court, on or before 03.01.2020 failing which, this petition shall stand dismissed without further reference to this Court. If the petitioner complies with the aforesaid conditions within the aforesaid time, the trial Court is directed to recall PWs 1 to 9, 11 and 12 and/to give an opportunity to the petitioner to cross examine those witnesses. The petitioner is directed to cross examine those witnesses on their appearance before the Court without seeking any further adjournment.

6. With the above directions, this Criminal Original Petition is disposed of.

Sd/-
Assistant Registrar(CS IX)

//True Copy//सत्यमेव जयते

Sub Assistant Registrar

dna

To

1.The Sessions Judge, Fast Track Mahila Court, Dharmapuri

2.The Inspector of Police
Papparapatty Police Station
Dharmapuri District.
(Crime No.160/2013)

3.The Public Prosecutor,
High Court, Madras.

+1cc to Mr.V.Sakkarapani , Advocate SR.No. 104676

Cr1.O.P.No.33833 of 2019

A.SK(19/12/2019)

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