



BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

Monday, the Twenty Ninth day of April Two Thousand and Nineteen

PRESENT

The Hon`ble Mr.Justice N.SESHASAYEE

WEB COPY

CRL MP(MD) No.4130 of 2019

IN

CRL OP(MD) No.5459 of 2019

1 JAVAHIR BEGUM

2 FAROOK BASHA,

... PETITIONERS/ACCUSED NOS.1 AND 2

Vs

MURALI KANNAN,

... RESPONDENT/COMPLAINANT

PRAYER IN CRL MP(MD)No.4130 of 2019:

Criminal Miscellaneous Petition is filed under Section 482 of Criminal Procedure Code, praying this Hon'ble Court to modify the date of cross examination of the PW1 to some other date as this Honourable Court may be modified, instead of 23.04.2019 fixed earlier in the order dated 11.04.2019 passed by this Honourable Court in Crl.OP(MD)No.5459 of 2019.

PRAYER IN CRL OP(MD)No.5459 of 2019:

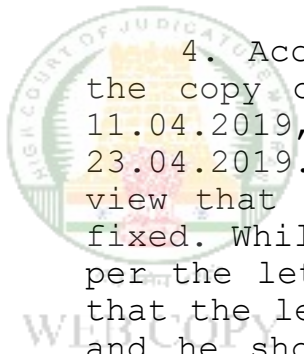
Criminal Original Petition is filed under section 482 of Criminal Procedure Code, praying this Hon'ble Court to call for records pertaining to the order in Crl MP No.954 of 2019, dated 12.03.2019 in STC No.558 of 2015, on the file of the Learned Judicial Magistrate, No.1, FTC at Madurai and set aside the same as illegal.

ORDER: Criminal Miscellaneous Petition is coming on for hearing on this day and upon perusing the petition and the affidavit filed in support thereof and upon hearing the arguments of Mr.S.Ayyanar Prem Kumar, Advocate for the Petitioner, this Court made the following order:

This petition is filed to modify the date of cross-examination of P.W.1 to some other date.

2.A petition which could have been easily avoided had only the learned trial Judge has been realistic about the intend of this Court as disclosed in the order.

3. The issue is that the petitioners wanted to recall P.W.1 for cross-examination for which he filed a petition under Section 311 Crl.P.C and that petition came to be dismissed by the learned Magistrate whereupon the petitioners moved this Court in Crl.O.P(MD) No.5459 of 2019. This Court directed cross examination on



4. According to the learned counsel for the petitioners, even the copy of the said order of this Court, recalling P.W.1 dated 11.04.2019, was made ready and served on him subsequent to 23.04.2019. In this circumstance, the learned Magistrate has taken a view that since the date has expired he wanted a fresh date to be fixed. While the Magistrate cannot be entirely faulted as he went as per the letters of the order dated 11.04.2019. This Court only says that the learned Magistrate could have been little realistic in that and he should gauge the intend behind the order only to let the petitioners to have P.W.1 to recall and cross-examine.

5. Now this Court directs the learned Magistrate to fix the date of his convenience for recalling and cross examining P.W.1 and on the date the Magistrate fixes, the petitioners shall not take time.

6. With the above direction, this petition is ordered.

Sd/-

Assistant Registrar

// True Copy //

Sub Assistant Registrar(CS)

To

1.The Judicial Magistrate No.I,
Fast Track Court, Madurai.

2.The Chief Judicial Magistrate, Madurai.

3.The Additional Public Prosecutor,
Madurai Bench of Madras High Court,
Madurai.

+1cc to Mr.S.Ayyanar prem kumar, Advocate, SR.No.6444

ORDER DATED:29.04.2019

ORDER

CRL MP(MD) No.4130 of 2019

IN

CRL OP(MD) No.5459 of 2019

KK/SAR/24.05.2019/ 2P- 5C