



BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

DATED: 31.10.2019

CORAM:

THE HONOURABLE MR. JUSTICE G.K.ILANTHIRAIYAN

Crl.O.P.(MD)Nos.12330 and 12322 of 2019  
and  
Crl.M.P(MD)Nos.7743 and 7740 of 2019

Pushkala ... Petitioner in both Crl.OPs.

Vs.

1.The State Rep. by  
The Inspector of Police,  
Suchindram Police Station,  
Kanyakumari District.  
(Crime No.22 of 2015)  
...1<sup>st</sup> Respondent /Complainant in both Crl.O.Ps.

2.Selvakumar ...2<sup>nd</sup> Respondent / Accused in both Crl.O.Ps.

COMMON PRAYER : Criminal Original Petitions filed under Section 482 of Cr.P.C. praying to set aside the order passed by the learned Trial Judge in Crl.M.P.Nos.388 and 389 of 2019 in S.C.No.163 of 2016, dated 13.08.2019.

For Petitioner : Mr.S.Sureshkumar in both Crl.O.Ps

For R1 : Mr.K.Suyambulinga Bharathi  
in both Crl.O.Ps

For R2 : No Appearance in both Crl.O.Ps.

### **C O M M O N O R D E R**

These petitions have been filed challenging the order passed in Crl.M.P.Nos.388 and 389 of 2019 in S.C.No.163 of 2016, dated 13.08.2019 on the file of the learned Sessions Judge, Fast Track Mahila Court, Kanyakumari @ Nagercoil, thereby, dismissing the applications filed by the first respondent under Section 91 of



Cr.P.C. to produce the FIR in Crime No.25 of 2019 and the ownership details of SIM Card No.9486451867 including subscription application, last payment made details ect.

2. It is seen that the petitioner is the victim. The second respondent is an accused for the offence under Sections 417, 376 and 506(i) of IPC. While pending trial, the second respondent harassed the petitioner and also brutally attacked her. Therefore, on the complaint lodged by the petitioner, the case has been registered in Crime No.25 of 2019 on the file of the Inspector of Police, Thuckalay Police Station, for the offence under Sections 341, 294 (b), 323 of IPC and Section 4 of TNPHW Act. Further, the accused/second respondent herein also used to threaten the de facto complainant through his phone No.9486451867. Therefore, the first respondent wanted to produce the FIR as well as the phone details before the trial Court to strengthen the case. Both the petitions were dismissed on the ground that those details are not required to the present cases as the case is posted for arguments. On the complaint lodged by the petitioner, the case has been registered in Crime No.25 of 2019. When the matter is posted for trial, the petitioner wanted to produce the FIR and phone details of the accused, which can be considered only during the trial. In this regard, the learned counsel for the petitioner also relied upon the following cases:

' ' 1) Mahender Chawla & Ors Vs. Union of India & Ors in Writ Petition (Crl) No.156 of 2016 - as per the ratio laid down in recent judgment with regard to the measures for Witness Protection Scheme - 2018 by the Hon'ble SC in, that the Petitioner's case is coming within the purview of part II - A to C Clauses of Categories of witness as Per Threat Perception, the Petitioner is to be protected suitably.

2) As per the ratio laid down that Gurunathagouda S/o.Ninganagouda Vs. The State of Karnataka CRIMINAL APPEAL No.100046/2019, Hon'ble HC of Karnataka, there is a duty to cast upon the trial Court to ensure the safety of the Witnesses

(Para 39) ' ' When the cause of threat has been brought to the notice of the Court, it is the duty of the Court to see that same should not be happened in dispensation of justice and the witness has to come to the Court without any fear' '.

3. Therefore, the petitioner is permitted to produce the FIR registered in Crime No.25 of 2019 and the phone details at the time of argument before the trial Court. The trial Court is directed to consider the same, while deciding the matter.



4. With the above directions, these Criminal Original Petitions stands disposed of. Consequently, connected miscellaneous petitions are closed.

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Sd/-

Assistant Registrar (CO)

// True Copy //

Sub Assistant Registrar (CS)

vsd

To

1. The Sessions Judge, Fast Track Mahila Court,  
Kanyakumari @ Nagercoil.

2. The Inspector of Police,  
Suchindram Police Station,  
Kanyakumari District.

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

+2 CC to M/s.S. SURESHKUMAR, Advocate ( SR-95633 & 95634[F] dated  
01/11/2019

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and  
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JMN(04.11.2019) 3P : 6C