

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED 21.01.2020

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THE HONOURABLE Mr.JUSTICE P.RAJAMANICKAM

CRL.O.P.No.1033 of 2020
and MP.No.630 of 2020

1.Manimaran
2.Kothandan
3.Ramesh

... Petitioners/ Accused
Vs.

The State by
The Inspector of Police,
Anaicut Police Station,
Vellore District.

...Respondent/Complainant

PRAYER: Criminal Original Petition filed under Section 482 of the Code of Criminal Procedure, to set aside the order passed in Crl.MP.No.2110 of 2019 in SC.No.240 of 2018 dated 03.09.2019 on the file of the Principal District and Sesion Judge, Vellore, Vellore District and further direct the production of documents as sought for within a reasonable time as may be prescribed by this Hon'ble Court.

For Petitioners :Mr.Adithya Varadarajan

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

O R D E R

This petition has been filed by the accused Nos.1 to 3 to set aside the order passed by the learned Principal District and Sessions Judge, Vellore in Crl.MP.No.2110 of 2019 in S.C.No.240 of 2018 dated 03.09.2019.

2. The learned counsel for the petitioner has submitted that the petitioners are facing trial for the alleged offences under Sections 147, 148, 302, 506(ii) and 120(b) IPC. He further submitted that already charge has been framed against the petitioners and now the case has been posted for Trial. He further submitted that based on the complaint lodged by the petitioners, a counter case was registered in Cr.No.68 of 2018 and charge sheet has also been filed in that case. He further submitted that in order to prove their innocence, the general

diary and the case diary are required and hence the petitioners have filed a petition under Section 91 of Cr.P.C in Crl.MP.No.2110 of 2019 to send for those diaries, but the Learned Sessions Judge by the order dated 03.09.2019 has dismissed the said petition by stating that the petitioners are entitled to see the case diary and since trial is not yet commenced, the general diary need not to be called for at this stage. He further submitted that the petitioners are facing serious charges and if those documents are called for in advance, the petitioners can peruse the said documents and prepare for cross examination well in advance and so that delay can be avoided during trial. Therefore he prayed to set aside the order passed by the learned Sessions Judge and allow the petition in Crl.MP.2110 of 2019 and send for those diaries.

3. Per contra, the learned Additional Public prosecutor has submitted that since the petitioners are accused persons they are not entitled to peruse the case diary. He further submitted that so far witnesses are not examined on the side of the prosecution and hence the petition is pre-mature and taking into consideration of the above said facts, the trial court has rightly dismissed the petition and in the said order this Court need not interfere.

4. So far as case diary is concerned, the petitioners being the accused persons, they are not entitled to peruse the case diary. At the most they can request the Trial Court to peruse the case diary at the time of Trial but they cannot not see the case diary.

5. In so far as general diary is concerned, there is no such bar and hence the petitioners are entitled to peruse the said diary. The Trial Court has dismissed the petition in toto on the ground that so far witnesses are not examined on the side of the prosecution. That cannot be a ground for dismissing the petition in respect of the general diary. If the said general diary is send for in advance, the petitioners will have an opportunity to peruse the said diary and cross examine the prosecution witnesses without seeking adjournments.

6. Therefore, this Court is of the view that in so far as prayer to send for the case diary is concerned the order passed by the Trial Court has to be upheld. In so far as the general diary is concerned, the order passed by the Trial Court is liable to be set aside.

7. In the result, this petition is partly allowed and the order passed by the learned Sessions Judge dismissing the CrI.MP.2110 of 2019 in so far as general diary is concerned is set aside. In so far as case diary is concerned, the order passed by the learned Sessions Judge is upheld. Consequently, connected Miscellaneous Petition is Closed.

Sd/-
Assistant Registrar(CCC)

//True Copy//

Sub Assistant Registrar

drl
To

1. The Inspector of Police,
Anaicut Police Station,
Vellore District.
2. The Public Prosecutor,
High Court, Madras.
3. The Principal District and Sessions Judge,
Vellore.

+1cc to Mr.A.E.Ravichandran , Advocate SR.No. 4825

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A.SK(17/03/2020)

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