

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 22.12.2020

CORAM

THE HONOURABLE MR. JUSTICE T.RAVINDRAN

Crl.O.P.No.20574 of 2020
and
Crl.M.P.No.8641 of 2020

Ravi

... Petitioner

Vs.

1.State by The Inspector of Police
Tindivanam Police Station,
Tindivanam, Villupuram District.

2.Elumalai
3.Jagadish
4.Jayaprakash

... Respondents

Prayer: The Criminal Original Petition has been filed under Section 482 Cr.P.C to set aside the impugned order dated 12.02.2020 in C.M.P.No.442 of 2019 in S.C.Case No.351 of 2017 on the file of the learned Additional Sub Ordinate Judge, Tindivanam and to allow the 311 Cr.P.C petition and reopen the case and examine the doctors and photographers.

For Petitioner : Mr.T.G.V.Aravinthan
For Respondent : Ms. M. Prabhavathi
No.1 Additional Public Prosecutor

ORDER

Assailing the order dated 12.02.2020 in C.M.P.No.442 of 2019 in S.C.Case No.351 of 2017 on the file of the Additional Sub Ordinate Court, Tindivanam, the petitioner has preferred the criminal original petition.

2.C.M.P.No.442 of 2019 has been laid by the State by Inspector of Police, Tindivanam Police Station, Tindivanam/complainant to reopen the case and examine two more witnesses i.e., the Doctor, who treated the injured at Jipmer Hospital and the Cameraman, who took the photographs of the injured at the hospital, as new witnesses in the case above stated.

3.The abovesaid petition has been seriously contested by the respondents/accused by putting forth that the petition has been preferred by the Prosecution only to fill up the lacunae and there is no merit in the petition and the same cannot be entertained and sought for dismissal of the same.

4.On an appreciation of the materials available on record and the rival contentions put forth by the respective parties, the Court below was pleased to dismiss the petition preferred by the Prosecution under Section 311 Cr.P.C. Challenging the abovesaid order, the defacto-complainant has chosen to prefer the criminal original petition.

5.According to the petitioner, he being the defacto-complainant, is entitled to challenge the impugned order and further, according to him, the Court below has failed to consider the necessity of examining the Doctor and the Photographer as sought for in the petition and hence, the impugned order is liable to be set aside.

6.On a perusal of the records put up in the criminal original petition and considering the submission of the counsel for the petitioner, as held by the Court below, the Doctor, who had been already examined in the matter, has testified about the initial treatment given to the injured and as to how he had perused the reports received from the Jipmer Hospital and finally, given the opinion that all the injuries were only simple in nature.

7.In the light of the abovesaid factors, the Doctor, who had already been examined in the matter, had opined about the nature of the injuries sustained by the injured person and when the said Doctor had given preliminary treatment to the injured, in such view of the matter, as held by the Court below, there is no necessity on the part of the complainant to summon the Doctor, who had attended the injured at the Jipmer Hospital and the same would not have any impact in the case. With reference to the injuries sustained by the injured person, the same has been spoken to by the Doctor, who had already been examined, hence the determination of the Court below that the examination of Doctor at Jipmer Hospital does not arise and would also not serve any purpose, merits acceptance.

8.With reference to the photographs sought to be projected to evidence that the injured had taken treatment in the hospital, if really such photographs had been available, the prosecution would have endeavored to produce the same at the inception before the trial Court along with charge sheet. On the other hand, the delayed attempt to produce the photographs would only go to show that the prosecution is endeavoring to fill up the lacunae and in such view of the matter, the

determination of the trial Court that neither the photographs nor the photographer attempted to be projected as additional evidence by the prosecution would serve purpose does not call for any interference.

9. In the light of the abovesaid reasons, the Court below had properly assessed the materials and the contentions put forth by the respective parties in the right perspective and rightly chosen to dismiss the petition in accordance with law. No valid reason has been projected by the petitioner/defacto complainant warranting interference in the impugned order.

In conclusion, I do not find any error or infirmity in the impugned order. Resultantly, the criminal original petition is closed. Consequently, connected miscellaneous petition is closed.

Sd/-

Assistant Registrar

//True Copy//

Sub Assistant Registrar

sms

To

1. Additional Sub Ordinate Judge, Tindivanam.

2. The Inspector of Police,
Tindivanam Police Station,
Villupuram District.

3. The Public Prosecutor, High Court, Madras.

Cr1.O.P.No.20574 of 2020

SSD (CO)

RMP (29/01/2021)

WEB COPY