



BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

DATED: 31.01.2020

CORAM:

**WEB COPY** THE HONOURABLE **MR.JUSTICE A.D.JAGADISH CHANDIRA**

Crl.O.P.(MD)No.19350 of 2019  
and Crl.M.P.(MD)No.11352 of 2019

Marimuthu @ Mari : Petitioner/Respondent/Accused No.4

Vs.

1.The State Represented by  
Inspector of Police,  
Palayamkottai Police Station,  
Tirunelveli District.  
In Cr.No.107 of 2015. : 1<sup>st</sup> Respondent/Petitioner/  
Complainant

2.Sakthivel  
3.Essakki Muthu  
4.Samathurai@Chinadurai : Respondents 2 to 4/Respondents/  
Accused Nos.1 to 3

**PRAYER:** Criminal Original Petition filed under Section 482 Cr.P.C.,  
to call for the records and set aside the same in Crl.M.P.No.11774  
of 2019 in S.C.No.367 of 2017, dated 29.11.2019 on the file of the  
IV Additional Sessions Judge, Tirunelveli.

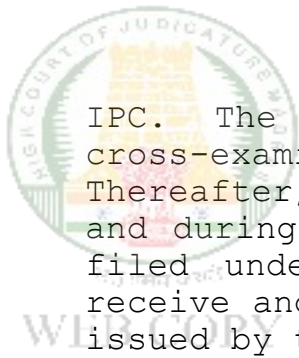
For Petitioner : Mr.V.Kathirvel,  
Senior Counsel,  
for M/S.K.Prabhu

For R1 : Mr.S.Chandrasekar,  
Additional Public Prosecutor.

**ORDER**

This criminal original petition has been filed to set aside the  
order in Crl.M.P.No.11774 of 2019 in S.C.No.367 of 2017, dated  
29.11.2019 on the file of the IV Additional Sessions Judge,  
Tirunelveli.

2.The petitioner and three other accused were tried in  
S.C.No.367 of 2017 on the file of the IV Additional Sessions Judge,  
Tirunelveli for the offences under Sections 341, 294(b), 302, 506(2)



IPC. The trial had commenced and P.W.1 to P.W.13 were examined and cross-examination was also completed on 08.11.2019 itself. Thereafter, the Investigating Officer-P.W.14 was examined in chief and during the course of examination in chief, a petition has been filed under Section 91 Cr.P.C., in Crl.M.P.No.11774 of 2019 to receive and mark the petition-receipt No.214/2014, dated 14.11.2014, issued by the Sub Inspector of Police, Thatchanallur.

3.The petitioner/accused had filed counter stating that all the prosecution witnesses have been examined and chief examination of the Investigating Officer-P.W.14 was also completed on 08.11.2019 and the petition under Section 91 of Cr.P.C., has been filed at a belated stage and that copies of the statements were not furnished to the petitioner and that the petitioner would be deprived of opportunity to elicit answers from the material witnesses i.e., P.W.1 Nellaiappan, P.W.3 Mani Arumugam, P.W.4 Petchimuthu, P.W.9 Narayanan and P.W.10, Muthulakshmi, Sub Inspector of Police about the contents of said documents. The learned trial Judge, after hearing both sides, allowed the petition to call for the documents mentioned in the petition.

4.The learned Senior Counsel appearing for the petitioner would submit that though as per Section 91 Cr.P.C., the Court has power to summon any document from any person, it can be done only when the Court considers that the production of such document is necessary or desirable for the purpose of trial. In this case the document called for is the Petition-Receipt No.214/2014, dated 14.11.2014 issued by the Sub Inspector of Police, Thatchanallur and the findings and statements to prove the previous enmity. In the case on hand, the witnesses have not denied about having given complaint to Thachanallur Police Station and thereby, there is no requirement for the prosecution to produce those documents. In this case admittedly P.W.9, during his examination in chief, had spoken about having given the complaint before the Thatchanallur Police Station and he has also admitted that the concerned Inspector had summoned all of them and advised not to quarrel. Further, even in the cross-examination, it has been reiterated by him and that whenever problems arose between auto drivers, complaints were given before the police station and he has also admitted about the problems between the auto drivers in Thachanallur. When that being the case, there is no requirement for passing such an order to call for the above documents. If witnesses have denied about having given complaint before the Thachanallur Police Station, the Investigating Officer can summon those documents to prove there was a complaint and an enquiry had been conducted at the Police Station and concluded whereas unnecessarily the trial has been belated, because of this petition.

5.The learned Additional Public Prosecutor appearing for the first respondent would fairly concede that P.W.9 has spoken about having given the complaint before the Thachanallur Police Station and he has also admitted about the problems between the auto drivers in Thachanallur. When that being the case, there is no requirement for passing such an order to call for the above documents. If witnesses have denied about having given complaint before the Thachanallur Police Station, the Investigating Officer can summon those documents to prove there was a complaint and an enquiry had been conducted at the Police Station and concluded whereas unnecessarily the trial has been belated, because of this petition.



dispute regarding parking of the vehicle and the complaint given to Thatchanallur Police Station and the enquiry made thereafter. He would submit that documents may not be required for marking.

6.Heard the learned counsel on either side and perused the materials available on record.

7.It is categorical evidence of P.W.9 that there was dispute between Sakthivel and Ponnaiah with regard to the parking of vehicles, in respect of which, he had given complaint before the Thachanallur Police Station and had asked the police to reprimand them. The Inspector of Police had summoned all the accused and had reprimand them and also got written-undertaking that they will not fight each other. P.W.9 had admitted that there was complaint in respect of which an enquiry had been conducted by the Inspector of Police, Thachanallur Police Station. When such being so, in the opinion of this Court, it would be an unnecessary exercise to call for the document to elicit the fact of the dispute between Sakthi and Ponnaiah and the complaint given to the Thachanallur Police Station.

8.In view of the same, this criminal original petition stands allowed and the impugned order is set aside. Consequently, connected miscellaneous petition is closed.

Sd/-

Assistant Registrar

// True Copy //

/ /2020

Sub Assistant Registrar(CS)

gns

To

1.The IV Additional Sessions Judge, Tirunelveli.

2.The Inspector of Police, Palayamkottai Police Station,  
Tirunelveli District.

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

+1 CC to M/s.K.PRABHU, Advocate ( SR-4696[F] dated 04/02/2020 )

Crl.O.P. (MD)No.19350 of 2019  
31.01.2020

JMN (20.02.2020) 3P : 5C

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