

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 16.02.2021

CORAM :

THE HONOURABLE MR. JUSTICE N.ANAND VENKATESH

Crl.O.P.No.2537 of 2021

Surattaian @ Prabakaran

..Petitioner

Vs.

The Inspector of Police,
Thiruchengode Rural Police Station,
Namakkal District.
(Crime No.390 of 20218)

..Respondent

Prayer: Criminal Original Petition filed under Section 482 of Cr.P.C. to set aside the impugned order passed by the Sessions (Fast Track Mahila) Judge at Namakkal in Crl.M.P.No.625 of 2020 in S.C.No.30 of 2019 order dated 14.12.2020 and directed to allow the petition to recall the witness, PW1 and PW2 filed by the petitioner under section 311 of CRPC in S.C.No.30 of 2019 on the file of the Sessions (Fast Track Mahila) Judge at Namakkal.

For Petitioner : Mr.Pandian for Dr.R.Narayanan
For Respondent : Mr.M.Mohamed Riyaz
Additional Public Prosecutor

ORDER

This petition has been filed challenging the order passed by the Court below, dismissing the application filed by the petitioner under Section 311 of Cr.PC to recall PW1 and PW2 for the purpose of further cross-examination.

2.The petitioner is facing trial before the Court below for an offence under Section 302 of IPC. PW1 and PW2 were examined in chief on 01.11.2019 on the side of the prosecution and they have been cross-examined on the same day.

3.The petitioner filed an application under Section 311 of Cr.PC to recall PW1 and PW2 for further cross-examination on the ground that the cross-examination was conducted by the counsel in the absence of the petitioner and vital questions were not put to the witnesses. The Court below has dismissed this application by an order dated 14.12.2020. Aggrieved by the same, the present criminal original petition has been filed before this Court.

4. Heard the learned counsel for the petitioner and the learned Additional Public Prosecutor appearing on behalf of respondents.

5. It is seen from records that totally 23 witnesses have been examined on the side of the prosecution and it is stated on the side of the petitioner that all of them have been cross-examined. It is at this stage, the petitioner filed an application under Section 311 of Cr.PC to recall PW1 and PW2 for further cross-examination. This application was filed on the ground that the petitioner was not present at the time of cross-examination of PW1 and PW2.

6. A reading of the order passed by the Court below clearly reveals the fact that on the date when PW1 and PW2 were examined in chief on the side of the prosecution, the petitioner was produced on PT warrant before the concerned court and the chief and cross-examination was conducted only in the presence of the petitioner. Even a cursory perusal of the deposition of PW1 and 2 shows that they have been effectively cross-examined on the side of the petitioner.

7. The claim made by the petitioner that he was not present at the time of cross-examination, has been found to be false and contrary to records and the same is clear from the order passed by the Court below. This Court does not find any illegality or infirmity in the order passed by the Court below and there is no ground to interfere with the same. Accordingly, this Criminal original petition is dismissed and there shall be a direction to the Court below to complete the proceedings in SC No.30 of 2019 on the file of Sessions (Fast Track Mahila) Judge at Namakkal, within a period of three months from the date of receipt of copy of this order.

Sd/-

Assistant Registrar(CCC)

//True copy//

Sub Assistant Registrar

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To

1. The Sessions (Fast Track Mahila) Judge at Namakkal,

2. The Inspector of Police,
Thiruchengode Rural Police Station,
Namakkal District.

3. The Additional Public Prosecutor,
High Court, Madras.

Cr1.O.P.No.2537 of 2021

MG(CO)
KKV/08/03/2021



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