

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 16.02.2021

CORAM

THE HONOURABLE MR. JUSTICE N. ANAND VENKATESH

Crl.O.P No.2920 of 2021
against
Crl.MP No.400 of 2020

1. Lakshmi @ sumathi
2. Chinnathambi
3. Bhuvaneshwaran Petitioners

vs.

The State represented by
Inspector of Police,
Thevur Police Station,
Salem District Respondent

PRAYER: Criminal Original Petition filed under Section 482 of the Code of Criminal Procedure, to set aside the order made in Crl.MP.No.400 of 2020 dated 27.01.2021 on the file of the learned III Additional District Judge, Salem.

For Petitioner : Mr.C.Ramkumar

For Respondent : Mr.Mohammed Riyaz
Additional Public Prosecutor

ORDER

This criminal original petition has been filed against the order passed by the Court below, dismissing the application filed by the petitioner under Section 311 of Cr.PC to recall PW16 and 17 for cross-examination.

2. The petitioners are facing trial before the Court below for an offence under Section 120 b, 302, 341, 404, 201 r/w 302 of IPC. The prosecution side had examined 17 witnesses. When PW16 and 17 were examined in chief, the petitioners sought for deferring the cross-examination on the ground that they will be

cross-examined after the completion of the cross-examination of PW1 to 4. This request was rejected by the Court below by an order dated 17.12.2020. Thereafter, the application filed by the petitioners under Section 311 of Cr.PC to recall PW1 to PW4 for cross-examination was also dismissed by the Court below.

3. The petitioners approached this Court and filed Crl.OP No.1170 of 2020 and this Court allowed the application and permitted the petitioner to cross examine PW1 to PW4. Accordingly, these witnesses were cross examined by the petitioners.

4. On completion of the cross-examination of PW1 to PW4, the petitioner filed an application to recall PW16 and PW17 for cross-examination. The said application was dismissed by the Court below and aggrieved by the same, the present Criminal Original Petition has been filed before this Court.

5. Heard the learned counsel for the petitioner and the learned Additional Public Prosecutor appearing on behalf of respondent.

6. The petitioner had sought for deferring the cross-examination of PW16 and 17 on the ground that they will be cross-examined after the completion of the cross-examination of PW1 to 4. These witnesses have been cross-examined. It is seen from records that PW16 and PW17 are Investigation officers and the petitioners want to cross-examine these witnesses. Considering the seriousness of the charges faced by the petitioners, this Court deems it fit to give one last opportunity to the petitioners to recall PW16 and 17 for cross-examination.

7. In view of the above, the order passed by the Court below in Crl.MP No.400 of 2020 dated 27.01.2021, is hereby set aside. The Court below is directed to fix a date for the appearance of PW16 and PW17. On their appearance, the petitioners are directed to pay a cost of Rs.1,000/- to each of the witnesses. On payment of such cost, the Court below shall permit the petitioners to cross-examine PW16 and PW17. The cross-examination shall be completed on the same day, these witnesses appear before the Court. If for any reason, the petitioners fail to cross-examine PW16 and PW17 on the date of their appearance, the petitioners shall forfeit their right to recall these witnesses in future.

11. In the result, this Criminal original petition is allowed and the Court below is directed to complete the proceedings in S.C No.26 of 2017, within a period of three months from the date of receipt of copy of this order.

Sd/-
Assistant Registrar(CS III)

//True Copy//

Sub Assistant Registrar

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To

1. The III Additional District Judge,
Salem.
2. The Inspector of Police,
Thevur Police Station,
Salem District.
3. The Public Prosecutor,
High Court, Madras.

+lcc to Mr.C.RamKumar, Advocate Sr.9033

Cr1.O.P No.2920 of 2021

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