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IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 23.06.2021

CORAM:

THE HON'BLE MR.JUSTICE M.DHANDAPANI

Crl.O.P.No.3744 of 2018

and

Crl.M.P.No.1700 of 2018

Amutha

...Petitioner/Petitioner

Vs.

1. R.Sakthivel

2. S.Chithra

3. S.Praveena

4. Arasu

5. Seenivasan

...Respondents/Respondents

PRAYER: Criminal Original Petition has been filed under Sections 482 and 401 of Cr.P.C, prayed to call for the records pertaining to the order made in C.M.P.No.3024 of 2017 in C.C.No.93 of 2011 dated 17.01.2018 by the learned Judicial Magistrate No.6, Salem and set aside the same and directing the learned Judicial Magistrate No.6, Salem to permitting the petitioner to examine all the witnesses in Crime No.141 of 2010 on the file of Inspector of Police, Mallur Police Station, Salem District.

For Petitioner : Mr.V.Murugesan

For Respondents : Mr.G.Moorthi

ORDER

(The case has been heard through video conference)

This Criminal Original Petition has been filed seeking to call for the records pertaining to the order made in C.M.P.No.3024 of 2017 in C.C.No.93 of 2011 dated 17.01.2018 by the learned Judicial Magistrate No.6, Salem and set aside the same and directing the learned Judicial Magistrate No.6, Salem permitting the petitioner to examine all the witnesses in Crime No.141 of 2010 on the file of Inspector of Police, Mallur Police Station, Salem District.



2. The case of the petitioner is that the petitioner filed a private complaint against the accused/respondents for the alleged offence under Section 323 and 324 of IPC and under the provision of 200 Cr.P.C., and the case is pending for trial. Further, originally a case has been registered by the Inspector of Police, Mallur Police Station, in Crime No.141 of 2010 and thereafter the Police authorities have examined 15 witnesses and recorded the statement of the witnesses and later the case was closed as mistake of fact. Thereafter, the petitioner filed a private petition under Section 200 Cr.P.C for the said above offence.

3. During the trial, the petitioner filed a petition under Section 311 of Cr.P.C to examine the 15 witnesses those who were examined by the Mallur Police Station in Crime No.141 of 2010. However, the trial Court dismissed the petition except for the Doctor witnesses. Hence, the present petition has been filed before this Court.

4. Heard the learned counsel appearing for the petitioner and the learned counsel appearing for the respondents.

5. The facts are not in dispute, admittedly, the petitioner initiated the complaint before the law enforcing agency in Crime No.141 of 2010. It is also equally admitted that 15 witnesses were examined. Subsequently, the case was referred as mistake of fact. However, the petitioner had not filed any protest petition against the closure of the case. Thereafter, the petitioner filed a Private complaint under Section 200 Cr.P.C., for the above said offence before the trial Court.

6. The petitioner wanted to examine all the witnesses who were examined by the police. However, it is to be pointed out that after examination, the previous case was closed by the police authorities as mistake of fact. The petitioner without filing a protest petition has filed the present petition in Private complaint to examine the said witnesses. The petitioner is trying to achieve through this petition what he has lost in the complaint filed before the police authorities. The petitioner filed a petition under Section 200 Cr.P.C has been carefully considered by the trial Court and except for the Doctor witnesses. The prayer of the petitioner for examined other witnesses was rejected by the trial Court and the above said facts and circumstances is just and reasonable and this Court find no error in the order passed by the trial Court.

7. In view of the above, this Court is of the opinion that no valuable reason has been raised in this Criminal Original



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Petition. Hence, the Criminal Original Petition is dismissed.
Consequently, connected miscellaneous petition is closed.

Sd/-
Assistant Registrar

//True Copy//

Sub Assistant Registrar

msrm

To

1. The learned Judicial Magistrate No.VI,
Salem.
2. The Public Prosecutor,
High Court of Madras.

Cr1.O.P.No.3744 of 2018

MG[co]
NSK 30/07/2021