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IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 05.08.2021

CORAM

THE HONOURABLE MR. JUSTICE M.DHANDAPANI

Crl.O.P.No.8000 of 2019

and

Crl.M.P.No.4340 of 2019

1. Yugaselvan
2. Thirusanku
3. Vanaroja
4. Nirmaladevi

... Petitioners

Vs.

Renuka

... Respondent

PRAYER: Criminal Original Petition filed under Section 482 of the Code of Criminal Procedure, to set aside the order dated 11.03.2019 made in Crl.M.P.No.1326 of 2019 in M.C.No.22 of 2015 on the file of Judicial Magistrate, Sirkali.

For Petitioners : Mr.S.Sounthar

For Respondent : Mr.V.Vinod kumar

O R D E R

The case of the petitioners is that the petitioners are implicated as accused in M.C.No.22 of 2015, at the instigation of the respondent/wife. The 1st petitioner is the husband of the respondent and the other petitioners are the in-laws of the respondent.

2. The respondent has preferred Domestic violence case in M.C.No.22 of 2015. At the time of trial, the petitioner has filed a petition u/s 311 Cr.P.C. in Crl.M.P.No.1326 of 2019, for reopening the petitioners' side case for examination of further witnesses and to execute the Witness Warrant issued against the Social Welfare Officer, Kancheepuram and in the order passed by



the Trial Court, it was held that the petitioner paid the process amount on 25.01.2019 to issue summons to the Social Welfare Officer, Kanchipuram and for the appearance of the Social Welfare Officer, Kanchipuram, the case was adjourned to 07.02.2019. However, on 07.02.2019, the said Officer was not present before the Trial Court inspite of receipt of summons on 31.01.2019. Hence witness warrant was issued and thereafter, the Witness Memo was issued on 21.02.2019. However, the Trial Court had dismissed the said petition holding that till 21.02.2019, the petitioners herein have not paid process fees to execute the witness warrant issued against the Social Welfare Officer, Kanchipuram and thereby dragged the proceedings. Challenging the same, the present petition is filed.

3. The learned counsel appearing for the petitioners submitted that the evidence of the Social Welfare Officer is very relevant, since enquiry was already conducted by the said Officer and a Report has also been filed stating that no incident involving domestic violence had taken place. The learned counsel appearing for the petitioner further submitted that it would suffice if this Court issues direction for the appearance of the Social Welfare Officer, Kanchipuram and further if the Social Welfare Officer appears before the Trial Court, the petitioners herein are ready to cross examine the witness on the same day and are also ready to pay the witness batta to the tune of Rs.2,000/- in favour of the Social Welfare Officer.

4. The learned counsel appearing for the respondent has no objection for a direction to the Social Welfare Officer, Kancheepuram to appear before the Trial Court for cross examination.

5. In view of the limited request sought for by the petitioner and the respondent also having no serious objection for the same, this Court is inclined to quash the order made in CrI.M.P.No.1326 of 2019 by allowing the petition and directing appearance of the Social Welfare Officer, Kanchipuram.

6. Accordingly, this Criminal Original Petition is allowed and the order dated 11.03.2019, made in CrI.M.P.No.1326 of 2019 in M.C.No.22 of 2015, on the file of the Judicial Magistrate, Sirkali, is quashed and the Social Welfare Officer, Kanchipuram, is directed to appear before the Trial Court, within a period of two weeks from the date of receipt of a copy of this order and the Trial Court is directed to fix the date



for Chief and cross examination of the Social Welfare Officer, Kanchipuram, by the petitioners herein and the petitioners are directed to cross examine the said Officer on the same day itself. Consequently connected miscellaneous petition is closed.

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Sd/-
Assistant Registrar(CO)

//True Copy//

Sub Assistant Registrar

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To

1. The Judicial Magistrate,
Sirkali.
2. The Public Prosecutor,
High Court, Madras.

Copy to:

The Social Welfare Officer,
Kanchipuram.

+1cc to Mr.S.Sounthar, Advocate Sr.38726

Cr1.O.P.No.8000 of 2019
and
Cr1.M.P.No.4340 of 2019

pm[co]
srg 10/08/2021