



IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 28.10.2021

CORAM:

THE HON'BLE MR.JUSTICE M.NIRMAL KUMAR

CRL.O.P.NO.19687 OF 2021
AND CRL.M.P.NO.10734 OF 2021

Nanjappan

... Petitioner/
Accused

Versus

The State rep. by its
Inspector of Police,
All Women Police Station,
North, Tiruppur,
Crime No.24 of 2014

... Respondent/
Complainant

PRAYER:

Criminal Original Petition filed under Section 482 of the Code of Criminal Procedure, to set aside the order dated 23.04.2021 made in Crl.M.P.No.50 of 2021 in C.C.No.725 of 214 on the file of the Additional Mahila Court (Magistrate Level), Tiruppur.

For Petitioner : Mr.M. Guruprasad
For Respondent : Mr. R.Vinothraja
Gov. Advocate (crl. side)

ORDER

This Criminal Original Petition has been filed to set aside the order dated 23.04.2021 made in Crl.M.P.No.50 of 2021 in C.C.No.725 of 214 on the file of the Additional Mahila Court (Magistrate Level), Tiruppur.

2. The petitioner, who is facing trial in C.C.No.725 of 2014 for the offences under Sections 498-A, 323, 324, 294(b) and 506 (ii), had filed a petition in Crl.M.P.No.50 of 2021 under Section 311 of Cr.P.C. seeking to re-call P.W1 for further cross examination before the Trial Court. The Trial Court, by an order dated 23.04.2021, dismissed the said petition finding that the petitioner had already cross examined P.W.1 elaborately and no valid reason has been given for re-calling P.W.1. Against which, the present petition has been filed.



3. The learned counsel for the petitioner submitted that, by oversight, he has not put some vital questions to P.W.1, which would cause great prejudice to the petitioner and hence, he has filed the re-call petition. He further submitted that the Trial Court dismissed the said petition on the ground that the case is pending from the year 2014.

4. The learned Government Advocate (crl. side) submitted that in this case, chief examination of P.W.1 was conducted on 24.12.2019 and since they have not cross examined the witnesses, 311 Cr.P.C. petition was filed, which was dismissed by the Trial Court. Against which, the petitioner had filed a petition in CrI.O.P.No.30321 of 2019 and this Court, by an order dated 27.01.2020, granted permission to re-call P.W.1 to P.W.9 to cross examine the witnesses. Pursuant to the order of this Court, on 08.02.2021, P.W.1 has been re-called and cross examined. Now, once again, the petitioner has filed a petition to recall P.W.1 for further cross examination. The trial Court, after considering all the aspects, rightly dismissed the petition, which need not be interfered with.

5. This Court considered the submissions made on either side and perused the materials available on records carefully.

6. Finding that the petitioner had already filed the petition to re-call P.W.1 and cross examined her on 08.02.2021. Further, filing this petition is nothing, but only to drag on the proceedings of the trial Court. The case is pending from the year 2014, and hence, this Court is not inclined to entertain this petition.

7. The only grievance of the petitioner is that the defacto complainant/P.W.1, who is the estranged wife, had deposed contrary to the evidence deposed in the D.V. Act Case in DV.A02 of 2015. He wants the same to be brought to the notice of the trial Court. The petitioner can produce this evidence along with 313 explanation and thereafter, the trial Court to consider the same.

8. Considering the above circumstances, this Criminal Original Petition is dismissed. Consequently, connected miscellaneous petition is closed.

Sd/-
Assistant Registrar(CS IX)

//True Copy//

mrp

Sub Assistant Registrar



To

1. The Additional Mahila Court (Magistrate Level),
Tiruppur.

2. The Inspector of Police,
All Women Police Station,
North, Tiruppur.

+lcc to Mr.M. Guruprasad, Advocate, S.R.No.55922

CRL.O.P.No.19687 of 2021

SJ(CO)
PM/08/12/2021