



BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

DATED : 28.10.2021

CORAM :

THE HONOURABLE **Mr. JUSTICE G.ILANGOVAN**

Crl.O.P.(MD)No.16509 of 2021
and Crl.M.P.(MD).No.8899 of 2021

O.Homerlal

.. Petitioner

Vs.

The Inspector of Police,
Ambasamudram Police Station,
Trirunelveli District.
Crime No.257 of 2013

.. Respondent

Prayer : Criminal Original Petition filed under Section 482 of the Code of Criminal Procedure, to set aside the order passed in Cr.M.P.No.1763 fo 2021 in C.C.No.303 of 2018 on the file of Judicial Magistrate, Valliyoor and permit the petitioner to cross examine the witness PW13.

For Petitioner

: Mr.S.C.Herold Singh

For Respondents

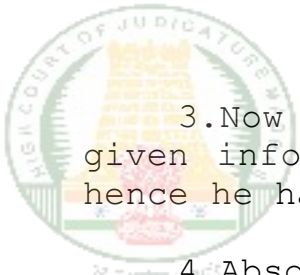
: Mr.RMS.Sethuraman

Additional Public Prosecutor

ORDER

This petition has been filed to set aside the order passed in Cr.M.P.No.1763 fo 2021 in C.C.No.303 of 2018 on the file of Judicial Magistrate, Valliyoor and permit the petitioner to cross examine the witness PW13.

2.The petitioner is facing trial for the offences punishable under Sections 294(b), 387, 506(ii) IPC r/w Section 4 of Tamil Nadu Prohibition of Harassment of Women Act and Sections 66A and 84B of Information of Technology Act. The crime is of the year 2013 and the case is of the year 2018. PW13 was examined and cross examined on 06.05.2019. After that this petition came to be filed seeking recall of PW13/Investigating Officer for the purpose of further cross examination. Observing that there is a long delay in filing this petition and cross examination was already made by the accused person, the trial Court dismissed the petition stating that there is no necessity for further cross examination.



3.Now the counsel for the petitioner submitted that PW13 has given information with regard to some new facts in his evidence, hence he has to be cross examined in that aspect.

4.Absolutely, the reason stated by the counsel is not understandable. As per the order of the trial Court, it is clearly seen that PW13 has been examined in chief on 06.05.2019 and on that day itself he was cross examined in elaborate manner by the accused person. Without disclosing any proper reason or setting out the new facts, no further cross examination can be permitted.

5.The learned Additional Public Prosecutor submitted that the case was posted on 19.11.2021 for further proceedings. In the absence of any proper reason, the order passed by the trial Court does not suffer from any illegality. The petition filed under Section 311 Cr.P.C. is also produced before this Court. In the petition, it has been stated that some of the facts have been deposed by the Investigating Officer during the course of cross examination and with regard to getting clarification, now request has been made directing the PW13 to produce the documents with reference to the facts that has been deposed by him. For further cross examination such a sort of plea cannot be raised at the conclusion of trial stage. For each and every fact that has been deposed by the Investigating Officer a document cannot be summoned and if at all the petitioner wants to contradict PW13 with regard to the documents that has been referred, he ought to have taken proper steps. Without taking proper steps, it is seen that 311 Cr.P.C. application has been filed, without setting out the relevancy of the facts that has been given by the Investigating Officer, only during the course of cross examination, he has given the particulars. I find absolutely no merits in this petition and it has been rightly dismissed by the trial Court.

6.Accordingly, this criminal original petition stands dismissed. Consequently, connected miscellaneous petition is closed.

Sd/-

Assistant Registrar (AD-I)

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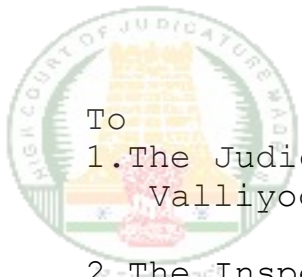
/ /2021

Sub Assistant Registrar (CS)

TM

Note:In view of the present lock down owing to COVID-19 pandemic, a web copy of the order may be utilized for official purposes, but, ensuring that the copy of the order that is presented is the correct copy, shall be the responsibility of the advocate/litigant concerned.

<https://hcservices.ecourts.gov.in/hcservices/>



To

1.The Judicial Magistrate,
Valliyoor.

2.The Inspector of Police,
Ambasamudram Police Station,
Trirunelveli District.

3.The Additional Public Prosecutor,
Madurai Bench of Madras High Court, Madurai.

+1 CC to M/s.S.C.HEROLD SINGH, Advocate (SR-33148[F] dated
29/10/2021)

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RK/SKN(22/11/2021) 3P 5C