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Crl.R.C.No.1458 of 2022

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 11.11.2022

CORAM:

THE HON'BLE Mr. JUSTICE P.VELMURUGAN

Criminal Revision Case No.1458 of 2022

and

Crl.M.P.No.16416 of 2022

S.Kandasamy

... Petitioner

Versus

1.The State rep.by
The Inspector of Police,
Prohibition of Land Grabbing Wing,
Salem District.

2.D.Madesh

3.L.Kannan

4.Sumathi

5.M.Mohanraj

... Respondents

Criminal Revision Case filed under Sections 397 r/w 401 of Criminal Procedure Code to set aside the order passed by the learned I Additional District and Sessions Judge, Salem in Crl.M.P.No.7 of 2021 in S.C.No.55 of 2019 dated 30.08.2022 by allowing this revision petition.

For Petitioners : Mr.S.Jeyakumar

For Respondents : Mr.S.Sugendran
Additional Public Prosecutor for R1
Mr.K.P.Ananthakrishna
under takes to file vakalat for R2 to R5



ORDER

This Criminal Revision Case has been preferred challenging the order dated 30.08.2022 made in Crl.M.P.No.7 of 2021 in S.C.No.55 of 2019 by the learned I Additional District and Sessions Judge, Salem.

2. The petitioner is the *de-facto* complainant, whose complaint was registered by the first respondent/Police against the respondents 2 to 5 herein. After trial, in the stage of arguments, the *de-facto* complainant engaged a counsel and through his counsel, he filed a petition under Section 302 Cr.P.C in C.M.P.No.7 of 2021 on the file of the I Additional District and Sessions Court, Salem, seeking to assist the prosecution by way of filing the written arguments and the said petition was dismissed. Challenging the said order, the petitioner has filed the present revision before this Court.

3. The learned counsel for the revision petitioner submitted that the *de-facto* complainant has got every right to assist the prosecution, but the trial Court failed to understand the scope of Section 302 Cr.P.C and had not accepted the petition filed by the petitioner/*de-facto* complainant to receive the written arguments.



4. Heard the learned counsel on either side and perused the materials available on record.

5. When the matter was taken up for hearing on 02.11.2022, this Court ordered notice to the respondents 2 to 5 through Court and privately. Today, when the matter is taken up for hearing, the cause list shows that the Court notice is awaited and affidavit of service filed, but the names of respondents 2 to 5 have not been printed in the cause list. However, Mr.K.P.Ananthakrishna undertakes to file vakalat for the respondents 2 to 5.

6. It seems that a petition was filed under Section 302 Cr.P.C before the learned Sessions Judge only to accept the written arguments filed by the *de-facto* complainant. Even though Section 302 Cr.P.C does not apply to Session trial, it is between the Court, the *de-facto* complainant and the Public Prosecutor. Mere filing written arguments through Public Prosecutor no prejudice would be cause to the accused. Under these circumstances, the trial Court is directed to receive the written arguments submitted by the *de-facto* complainant through the Public Prosecutor. The Public Prosecutor is directed to receive the written arguments from the *de-facto* complainant and submit



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the same before the trial Court. The learned I Additional District and Sessions Court, Salem is directed to accept the written arguments of the *de-facto* complainant and hear the arguments of both the prosecution and defence side and dispose of the matter on merits and in accordance with law.

7. With the above direction, this Criminal Revision Case is allowed to the extent indicates above. Consequently, connected miscellaneous petition is closed.

11.11.2022

Index : Yes/No
Speaking Order/Non Speaking Order
ms

Note: Issue order copy today (11.11.2022)



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To

- 1.The I Additional District and Sessions Judge,
Salem.
- 2.The Inspector of Police,
Prohibition of Land Grabbing Wing,
Salem District.
- 3.The Public Prosecutor,
High Court, Madras.



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P.VELMURUGAN, J.

ms

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