



BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

DATED : 28.04.2022

CORAM:

WEB COPY

THE HONOURABLE **MR. JUSTICE G.K.ILANTHIRAIYAN**

Crl.R.C(MD) .No.419 of 2022
and
Crl.M.P(MD) .No.5485 of 2022

1.Johnson
2.Pudumairaj
3.Nesamani
4.Rosali

..Petitioners/Petitioners/Accused
Vs.

State rep., by its
The Sub Inspector of Police,
Thiruvaiyaru All Women Police Station,
Thanjavur District.
(Crime No.10 of 2012)

..Respondent/Respondent/Complainant

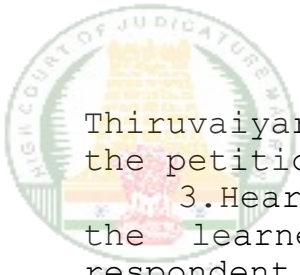
PRAYER: This Criminal Revision Case is filed under Section 397 r/w 401 of Criminal Procedure Code, to call for the records and to set aside the order in C.M.P.No.2921 of 2021 in CC.No.165 of 2014 on the file of the learned Judicial Magistrate, Thiruvaiyaru.

For Petitioner : Mr.A.Arunprasad
For Respondent : Ms.Aasha
Government Advocate (Crl.side)

O R D E R

This petition has been filed to set aside the order in C.M.P.No.2921 of 2021 in CC.No.165 of 2014 on the file of the learned Judicial Magistrate, Thiruvaiyaru.

2.The petitioners are the accused in Crime No.10 of 2012 for the alleged offences under Sections 498(A), 506(i) IPC r/w Section 4 and 6 of DP Act on the file of the respondent Police and after filing the charge sheet, the case was taken on file in CC.No.155 of 2014 on the file of the learned Judicial Magistrate, Thiruvaiyaru. During the trial P.W.7 (Investigating Officer) was examined on 09.01.2017, on that day the petitioners' counsel was not able to cross-examine P.W.7. Thereafter, the petitioners have filed a recall petition and the same was allowed, but P.W.7 has not appeared before the Court. Thereafter, the petitioners filed a petition under Section 243(2) Cr.P.C in C.M.P.No.2921 of 2021 for cross-examination of P.W.7 before the learned Judicial Magistrate,



Thiruvaiyaru and the same was dismissed. Aggrieved over the same, the petitioners are before this Court.

3. Heard the learned counsel appearing for the petitioners and the learned Government Advocate (Crl.side) appearing for the respondent.

4. The learned Government Advocate (Crl.side) appearing for the respondent submitted that the petitioners themselves reported no cross examination before the trial Court when the matter was posted for defence side witnesses and as such they cannot seek now to examine the Investigating Officer.

5. The learned counsel for the petitioners submitted that only for getting suggestion from the Investigating Officer that whether any previous complaint was lodged by the defacto complainant or not.

6. In view of the above, this Court finds no infirmity or illegality in the order passed by the Court below. However, the petitioner is permitted to examine the present Investigating Officer only to get suggestion whether any previous complaint was lodged by the defacto complainant or not. Accordingly, the trial Court is directed to examine the present Investigating Officer and permit the petitioner to get suggestion only. Such an exercise shall be completed within a period of two months from the date of receipt of a copy of this order.

7. With the above observation, this Criminal Revision Case is disposed of. Consequently, connected Miscellaneous Petition is closed.

Sd/-

Assistant Registrar (Records)

// True Copy //

/ /2022

Sub Assistant Registrar(CS)

rmk

To

1. The Judicial Magistrate, Thiruvaiyaru.
2. The Sub Inspector of Police,
Thiruvaiyaru All Women Police Station,
Thanjavur District.

Copy to:

The Section Officer, Criminal Section(Records),
Madurai Bench of Madras High Court,
Madurai.

Crl.R.C(MD).No.419 of 2022
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MGJ(03.06.2022) 2P 5C