



Crl.O.P.(MD) No.14406 of 2022

BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

DATED: 11.08..2022

CORAM:

THE HONOURABLE MR. JUSTICE **V.SIVAGNANAM**

Crl.O.P.(MD) No.14406 of 2022
and Crl.M.P(MD) No.9290 of 2022

1. Ganeshram
2. Manivannan
3. Rajamanickam

...Petitioners

vs

The Inspector of Police
Rajapalayam South Police Station
Virudhunagar District

..Respondent

PRAYER: Criminal Original Petition filed under Section 482 Cr.P.C. praying this Court to call for the records and set aside the order passed by the learned Sessions Judge(Magalir Neethimandram) Fast Track Mahila Court, Virudhunagar District at Srivilliputhur in Crl.M.P.No.629 of 2022 in S.C.No. 166 of 2015 on 07.07.2022.

For Petitioners : Mr.M.Jothibas
For Respondent : Mr.R.Suresh Kumar
Government Advocate (Crl.Side)



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ORDER

This Criminal Original Petition has been filed to set aside the order passed by the learned Sessions Judge(Magalir Neethimandram) Fast Track Mahila Court, Virudhunagar District at Srivilliputhur in Crl.M.P.No.629 of 2022 in S.C.No.166 of 2015 on 07.07.2022.

2. The learned counsel for the petitioners would submit that the petitioners are accused in S.C.No.166 of 2015 on the file of the learned Sessions Judge(Magalir Neethimandram) Fast Track Mahila Court, Virudhunagar District at Srivilliputhur. Initially the case was registered for the offences punishable under Sections 306,304(B) of IPC r/w.Section 4 of TNPHW Act and after investigation it has been altered to Sections 498(A) and 304(B) of IPC. After framing of charges, trial was ordered. Prosecution witnesses have been examined, questioning under Section 313 of Cr.P.C completed and the case posted for argument and the accused persons have filed written arguments before the trial Court. At that time, the learned Additional Public Prosecutor has filed a petition under Section 311 of Cr.P.C before the trial Court for recalling L.W.2 and L.W.8, the mother and sister of



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the deceased respectively and that petition was allowed by the trial court for the reason that the cross examination of LW.2 and LW.8 is very important. It is also further stated that the previous counsel for the prosecution dispensed their appearance who conducted the case by mistake and in order to give one more opportunity the trial Court has allowed the petition. Considering the fact that the prosecution has not taken any steps to examine LW.2 and LW.8 before questioning under Section 313 of Cr.P.C and they dispensed with witnesses as not required and now they want to examine the witnesses. After submission of the petitioner, written arguments were filed to fill up the lacuna of the prosecution case. Under these circumstances permitting to cross examine L.W.2 and LW.8 will affect the accused and hence pleaded to set aside the order of the Court.

3. The learned Government Advocate(Crl.Side) would submit that the accused persons were prosecuted for the offences under Sections 498(A) and 304(B) of IPC with regard to the demand of dowry done by the mother and sister of the witnesses.



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4. I have considered the submission of the learned counsel appearing for the petitioner and the learned Government Advocate (criminal side) appearing for the respondents police.

5. Perusal of the record reveals the fact that the petitioners are accused in S.C.No.166 of 2015 on the file of the learned learned Sessions Judge(Magalir Neethimandram) Fast Track Mahila Court, Virudhunagar District at Srivilliputhur. The petitioners/accused were prosecuted for the offences under Sections 498(A) and 304(B) of IPC. The mother of the deceased and the sister of the deceased are cited as LW.2 and L.W.8 as prosecution witnesses. While examining the prosecution witness, the then Assistant Public Prosecutor dispensed the examination of L.W. 2/Seethalakshmi and L.W.8/Bakyashree. Succeeding Public Prosecutor found the mistake previously committed and at that time the prosecution have completed the questioning under Section 313 of Cr.P.C. Then the present Public Prosecutor filed an petition for recalling L.W.2 and L.W.8 for examination on prosecution side.



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6. The petitioners/accused were charged for demand of dowry and for harassment and due to demand made, the deceased committed suicide. In order to substantiate the case, the prosecution relied upon the evidence of deceased mother and sister whether dowry demand was made or not, whether the deceased was harassed or not has to be spoken by the mother and sister of the deceased. Therefore the evidence of mother and sister of the deceased are very much essential to arrive at the just decision of the Court, hence I do not find any infirmity or illegality in the order passed by the Court below permitting the prosecution to recall L.W.2 and L.W 8.

7.In the result, the petition stands dismissed. Consequently connected miscellaneous petition is closed.

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Internet: Yes
Index: Yes/No
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To

1. The Inspector of Police
Rajapalayam South Police Station
Virudhunagar District
2. The Additional Public Prosecutor,
Madurai Bench of Madras High Court,
Madurai.



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V.SIVAGNANAM, J.

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