



Crl.O.P.No.873 of 2023

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 12.01.2023

CORAM

THE HONOURABLE MR. JUSTICE G.CHANDRASEKHARAN

Crl.O.P.No.873 of 2023

and

Crl.M.P.No.437 of 2023

1.Ushman Basha

2. Mahaboob Basha

3. Hasina Begam

...Petitioners

Vs.

The State Represented by,
Inspector of Police,
All Women Police Station,
Poonamalle

...Respondent

Prayer: This Criminal Original Petition filed under Section 482 of Cr.P.C., to set aside the order in Crl.M.P.No.750 of 2022 in C.C.No.237 of 2017 dated 19.09.2022 on the file of the Judicial Magistrate No.1, Poonamallee.

For Petitioner : Mr.R.Anburaj

For Respondents : Mr.S.Santhosh,
Government Advocate (crl.side)



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ORDER

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This Criminal Original Petition has been filed to to set aside the order in Crl.M.P.No.750 of 2022 in C.C.No.237 of 2017 dated 19.09.2022 on the file of the Judicial Magistrate No.1, Poonamallee.

2. The learned counsel for the petitioner submitted that certain question and answers were not properly recorded by the trial Court. That apart, certain important questions have been omitted to be asked during the course of the cross-examination. Therefore, petition under Section 311 of Cr.P.C was filed. However, without considering the genuineness in the claim of the petitioner, the learned Judge had dismissed the petition without discussing on the ground for which the petition was filed and also giving reasons for dismissal.

3. The learned Government Advocate (Crl. Side) submitted that the order does not indicate the grounds on which the petition was filed and the reason for dismissal.



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4. Considered the rival submissions and perused the record. Without going into the merits of the claim of the petitioner, this Court finds from the order of the learned Judge that the order does not indicate the grounds on which the petition for recall was filed and the reason for dismissal of the petition.

5. The operative portion of the order passed by the learned Judge is extracted as follows:

“Morning Passover for cross turned over no representation. On perusal of recorded 30.08.2018. PW1 was detailed cross examined fully. Further till pending filed. Only fillup the petition. Due to principal of Kartikeyan (v) State this petition is not maintainable. Dismissed.”

The order did not discuss the grounds taken by the petitioner. It is submitted by the learned counsel for the petitioner that part of the sentence in the deposition of PW1 was typed mistakenly and it gives negative meaning, which is detrimental to the case of the defence and some important questions have been omitted to be asked. This aspect was not at all discussed in the order.



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The order of the learned Magistrate is cryptic and it is not reasoned order.

Therefore, the order passed by the learned Judicial Magistrate No.I, Poonamallee in Crl.M.P.No.750 of 2022 dated 18.11.2022 is set aside. Further, the learned Judge is directed to consider the petition on the grounds raised in the petition and the objections made by the respondent side and pass considered order within a period of two weeks from the date of receipt of copy of this order.

6. With the above observations and directions, this Criminal Original Petition is disposed of. Consequently, connected miscellaneous petition is closed.

12.01.2023

sma

To

1. Inspector of Police,
All Women Police Station,
Poonamallee

2. The Public Prosecutor,
High Court of Madras.



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G.CHANDRASEKHARAN,J.

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