



Crl.R.C.(MD).No.744 of 2023

BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

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Dated : 18.07.2023

CORAM

THE HONOURABLE MR.JUSTICE K.K.RAMAKRISHNAN

Crl.RC(MD)No.744 of 2023
and
Crl.MP(MD)Nos.10170 & 10173 of 2023

1.Peter
2.Sumathi ... Petitioners/Accused 5 & 6
Vs.

1.The Inspector of Police,
Perumalpuram Police Station,
Palayamkottai,
Tirunelveli. ... 1st Respondent/Complainant

2.Seetha ... 2nd Respondent/Defacto complainant

PRAYER: Criminal Revision Petition has been filed under Section 397 r/w 401 of Cr.P.C., to call for records pertaining to the order passed by the learned Magistrate under Section 319 of Cr.P.C., dated 10.11.2022 in C.C.No.222 of 2018 on the file of the Additional Mahila Court, Tirunelveli, and set aside the same as illegal.

For Petitioners : Mr.M.Mahaboob Athiff

For R1 : Mr.P.Kottai Chamy

Government Advocate (Crl.Side)



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ORDER

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This petition has been filed by the petitioners to set aside the impugned order passed by the Additional Mahila Court, Tirunelveli, in C.C.No.222 of 2018, dated 10.11.2022.

2.It is seen that the defacto complainant said to have assaulted by the petitioners and others. The Investigating Agency deleted their names in the final report. After recording the evidence of P.W.1 to P.W.4, the petitioners are arrayed as accused under Section 319 Cr.P.C., by the impugned docket order dated 10.11.2022. The said impugned docket order dated 10.11.2022 was challenged in the present Revision.

3.Pending the same, the learned counsel for the petitioners on instructions, would submit that even though they challenged the impugned order of array of the accused, he does not challenge the same and seeks only to direct the learned trial Judge to re-call the witnesses on their behalf.

4.The said remedy is already available to the petitioners as per the Criminal Procedure Code. Hence, this Court is inclined to dispose of this Revision with the following direction:-



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i) The learned Judge, Additional Mahila Court, Tirunelveli, is directed to permit the petitioners to re-call the witnesses already examined and dispose the trial in C.C.No.222 of 2018 after giving adequate opportunity to the petitioners as per the law.

5. With the above direction, this Criminal Revision Case is disposed of. Consequently, the connected miscellaneous petitions are closed.

6. However, considering the age of the petitioners, the personal appearance of the petitioners before the trial Court is hereby, ordered to be dispensed with, on conditions that they shall appear at the time of initial questioning, proceedings under Section 313 of Cr.P.C., and at the time of passing judgment and on the hearings, specifically directed by the trial court. The petitioners are further directed to give an undertaking in the form of affidavit that they will be duly represented by a counsel on all hearing dates and that the Counsel representing them will cross examine the prosecution witnesses on the date of chief examination. The petitioners shall not dispute the identity of the witnesses. The petitioners shall appear before the Court in the event their presence is insisted by the trial judge for the purpose of identification. If the petitioners



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adopt any dilatorious tactics, it is open to the Trial Court to insist for their appearance and deal with the petitioners in accordance with the judgment of Supreme Court of India, *in State of Uttar Pradesh Vs. Shambunath Singh*, reported in *2001 (4) SCC 667*.

18.07.2023

NCC : Yes/No
Index : Yes/No
Internet: Yes/No
dss

To

- 1.The learned Judge, Additional Mahila Court,
Tirunelveli.
- 2.The Inspector of Police,
Perumalpuram Police Station,
Palayamkottai,
Tirunelveli.
- 3.The Additional Public Prosecutor,
Madurai Bench of Madras High Court,
Madurai.
4. The Section Officer,
Criminal Records,
Madurai Bench of Madras High Court,
Madurai.



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K.K.RAMAKRISHNAN,J.

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