



Crl.O.P.No.5828 of 2023

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 11.01.2024

CORAM :

THE HONOURABLE MR.JUSTICE N.ANAND VENKATESH

Crl.O.P.No.5828 of 2023
and Crl.M.P.No.3646 of 2023

Savithri

...Petitioner

Vs.

1.State rep.by
Inspector of Police,
Gobichettipalayam Police Station,
Erode District.

2.M.Subramanian
3.N.Murugesan
4.Duraisamy
5.V.P.Gnanasammandham

...Respondents

Criminal Original Petition under Section 482 of the Criminal Procedure Code to set aside the order dated 09.11.2022 made in C.M.P.No.5002 of 2022 in C.C.No.89 of 2015 on the file of Judicial Magistrate Court No.I, Gobichettipalayam at Erode and to allow the above Criminal original Petition.

For Petitioners : Mr.C.S.Saravanan
For 1st respondent : Mr.A.Damodaran,
Additional Public Prosecutor



Crl.O.P.No.5828 of 2023

For R2 to R4 : Mr.S.Parameswaran

ORDER

WEB COPY

This petition has been filed by the victim / defacto complainant, challenging the order passed by the Court below in Crl.M.P.No.5002/2022, dated 09.11.2022, dismissing the application filed on the side of the prosecution to bring in two additional documents and to mark the same through the concerned witnesses.

2. The petitioner is the defacto complainant and based on the complaint given by the petitioner, an FIR came to be registered in Cr.No.411 of 2022, against four accused persons. Ultimately, on completion of investigation, final report was also filed and it was taken on file in C.C.No.89 of 2015, by the Court below, as against A1 to A3. Subsequently, A4 was also added as an accused.

3. Even before the effective commencement of the trial, an application came to be filed by the prosecution under Section 311 Cr.P.C to bring in two documents and to substantiate the case of the prosecution. The



CrI.O.P.No.5828 of 2023

said application came to be dismissed by the Court below, by order dated 09.11.2022 and same has been put to challenge by the defacto complainant in this petition.

4. The learned Additional Public Prosecutor, on instructions, submitted that during the pendency of this petition, the prosecution had examined Lws. 2 to 10. The case is now posted on 22.01.2024 for further examination of witnesses Lws 1, 11 to 20.

5. Heard the submissions of learned counsel for the petitioner and the respective learned counsel for respondents. This Court, carefully went through the order passed by the Court below.

6. The Court below had gone into the tenability of the documents and considered the same even before these documents were brought on record. That is not the stage to assess the documents and that stage will arise only when the documents are sought to be marked through witnessess. That is the stage when the Court below has to look into the relevancy, admissibility and proof of the documents.



Crl.O.P.No.5828 of 2023

7. The power available under section 311 Cr.P.C is wide enough and it can be exercised at any stage to meet the ends of justice. Such jurisdiction will also encompass bringing in certain documents or examining new witnesses, subject to giving an opportunity to the accused persons. The scope of this provision was discussed in detail by this Court in ***K.Ravichandran Vs., Inspector of Police, T.M.C.H. Police Station, Thanjavur, 2018 (2) LW Crime page 944.***

8. In the considered view of this Court, there was no need for the Court below to go into the admissibility or otherwise of the documents, even before those documents were taken on file. Therefore, the order passed by the Court below requires interference of this Court. Accordingly, the order passed in C.M.P.No.5002/2022, dated 09.11.2022, on the file of the Judicial Magistrate Court, No.1, Gobichettipalayam, Erode, is hereby set aside. The copy of those documents shall be furnished to the accused persons as and when those documents are sought to be marked through witnesses. It is always be left open to the Court below to go into the relevancy, admissibility and proof of those documents at that stage.



Crl.O.P.No.5828 of 2023

WEB COPY

9. In the result, this Criminal Original Petition is allowed in the above terms and the order dated 09.11.2022 made in CMP.No.5002/2022 in C.C.No.89/2015, on the file of the learned Judicial Magistrate Court No.1, Gobichettipalayam, Erode, is set aside. Consequently connected miscellaneous petition is closed.

11.01.2024

Index : Yes/No
Speaking Order : Yes/No

sk

To

- 1.The Inspector of Police,
Gobichettipalayam Police Station,
Erode District.
- 2.The Judicial Magistrate Court No.I,
Gobichettipalayam, Erode.
- 3.The Public Prosecutor,
High Court, Madras.



WEB COPY



Crl.O.P.No.5828 of 2023

N.ANAND VENKATESH,J.

Sk

Crl.O.P.No.5828 of 2023

11.01.2024