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Crl. O.P. No. 16166 of 2024

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 10.07.2024

CORAM

THE HONOURABLE DR.JUSTICE G.JAYACHANDRAN

Crl. O.P. No. 16166 of 2024

and

Crl.MP.No.9867 of 2024

Banumathi

... Petitioner

Vs.

1.Asaithambi

2.The State Rep., by
The Inspector of Police,
Kumaratchi Police Station,
Cuddalore District.
(Crime No. 145 of 2018)

... Respondents

Prayer: Criminal Original Petition is filed under Section 482 of Cr.P.C., to call for the records and set aside the order passed by the learned II Additional District and Sessions Judge, Chidambaram in Crl. M.P. No. 229 of 2023 in S.C. No. 96 of 2019 dated 06.06.2024 and thus render justice.

For Petitioner : Mr. G. Pugazhenth

For Respondents : Mr. S. Udaya Kumar, for R2
Government Advocate (Crl.Side)



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ORDER

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2. After completion of the prosecution witnesses and Section 313 Cr.P.C proceedings, the accused has taken out an application under Section 233 for production of final report in Cr.No.153 of 2018 by Head Clerk of the concerned Court despite objection raised by the defacto complainant. Therefore, the said application been allowed by the trial Court holding that having marked the complaint in Cr.No.153 of 2018 as Ex.D7 and the printed FIR as Ex.D8.

3. It is appropriate for the Court to permit the application to mark the final report in that case for proper appreciation. The objection that application been filed to delay the process been overruled. The defacto complainant being aggrieved by the said order is before this Court stating that though the earlier attempt by the accused to introduce the same document through application under Section 315 of Cr.P.C was withdrawn after objection. The defense has advised to file fresh



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application for the same relief under Section 233 of Cr.P.C. The trial Court instead of recording that the petition is filed to vex the trial and to delay it unnecessarily had allowed the application.

4. The learned counsel appearing for the petitioner submits that the attempt of the accused is to delay the process. Cr.No.153 of 2018 is not a counter case arising out of same transaction, but, it is different case which is pending trial. There is no relevancy between the case subject matter of the trial in SC.No.96 of 2019 and Cr.No.153 of 2018 except to say that for the murder of the petitioner's husband, the relatives of the petitioner attacked the accused in this case.

5. This Court on perusal of the records and the spirit of Section 233 of Cr.P.C find that the accused in this case has exercised their right conferred under Section 233 of Cr.P.C seeking production of final report in a case where they are the victims and the accused are defacto complainant and relatives. The relevancy of the case has to be decided by the trial Court. The learned Sessions Judge on considering the fact that the FIR and the complaint in Cr.No.153 of 2018 already been taken on record as Ex.D7 and Ex.D8. It is appropriate to allow the application to



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receive the final report in that case for proper appreciation of evidence.

Section 233(3) of Cr.P.C reads as below:

“ (3) If the accused applies for the issue of any process for compelling the attendance of any witness or the production of any document or thing, the Judge shall issue such process unless he considers, for reasons to be recorded, that such application should be refused on the ground that it is made for the purpose of vexation or delay or for defeating the ends of justice”.

The tenure of the provision makes clear that the accused has a right seeking production of any document and such plea can be negated. Only if the Judge holds that such application is filed for the purpose of vexation or delay or for defeating ends of justice.

6. In this case, the learned Judge had thought fit that there is such reasons to deny the plea of the accused seeking production of document namely the final report in Cr.No.153 of 2018.



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7. This Court does not find any error or perversity in the order of the learned Sessions Judge which is impugned. Hence, this Criminal Original Petition is dismissed. Consequently, the connected miscellaneous petition is closed.

10.07.2024

Vv

To

1. The II Additional District and Sessions Judge,
Chidambaram.
2. The Inspector of Police,
Kumaratchi Police Station,
Cuddalore District.
3. The Public Prosecutor,
High Court of Madras,
Chennai.



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Dr.G.JAYACHANDRAN,J.

Vv

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