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Court : Chennai Madurai

Decided On : Oct-26-2015

Judge : The Honourable Ms. Justice R. Mala

Appeal No. : Crl.O.P.(MD)No. 20294 of 2015 & M.P(MD).No. 1 of 2015

Appellant : Ramachandran @ Splendor Ramachandran

Respondent : State rep. by Deputy Superintendent of Police, Karur District

Judgement :

(Prayer:- Criminal Original Petition is filed under Section 482 of Cr.P.C. praying to set aside the order in C.M.P.No.146 of 2015 in Spl.S.C.No.7 of 2015 passed by the learned Fast Track Mahila Court, Karur by allowing this direction petition.)

1. The petitioner who is a first accused has come forward with this petition challenging the impugned order passed in C.M.P.No.146 of 2015 in Special S.C.No.7 of 2015 dated 15.09.2015. The petitioner herein has filed C.M.P. to recall PWs 15 and 25 for further cross examination and to produce the Compact Disc in which the postmortem has been videographed but the Compact Disc was not produced and marked and the videographer was not examined during the trial. That factum was not considered by the trial court and dismissed the C.M.P.No.146 of 2015 against which the present petition has been filed.

2. The learned Counsel appearing for the petitioner would submit that even though the postmortem has been videographed neither the videographer examined nor the Compact Disc has been marked since on the basis of blood stain of the petitioner found place in Thoopatta of the deceased victim he was roped in this case. Hence, for further cross-examine of PWs 15 and 25 and videograph of compact disc is necessary that has not been considered by the trial Court. Hence, he prays for setting aside the same.

3. The learned Government Advocate (Criminal side) submits that the victim girl, who is 17 years old belonging to the depressed community, has been gang raped and murdered. He further submits that already 42 witnesses were examined and the case has been posted for examination of Investigating Officer. Now, with a view to drag on the proceedings this petition has been filed. Since sufficient materials have been produced, further cross-examination of PW.25-Dr.T.Sakthivel is not necessary. Hence, he prays for dismissal of the petition.

4. Considering the rival submissions and on perusal of the records, it is seen that the case has been registered on 24.06.2014 for the offences under Section 302 IPC and Sections 5 and 6 of Protection of Children from Sexual Offences Act, 2012, on the basis of the complaint given by the father of the deceased girl namely Ponnusamy, as a circumstantial evidence. During the investigation only, the petitioner/accused is arrayed as A1, charge sheet has been filed against A1 and A2. After framing of the charges, the witnesses have been examined and now the case has been posted for examination of Investigating Officer.

5. The learned Counsel appearing for the petitioner submits that the thupatta of the deceased girl contained the blood stain of A1 that has been videographed and the videographer has not been examined and his examination has been dispensed with. Hence, he wants production of the C.D and further cross-examination of Dr.T.Sakthivel(PW25) and PW15 supportive witness.

6. Admittedly, the case is based on the circumstantial evidence. The thuppata contains blood stain of A1 that has been proved by way of chemical report and serological report. Hence, non-examination of videographer is not fatal to the case of the petitioner. The learned Judge, in his order dated 29.09.2015, stated that

already PW.15 and 25 were cross-examined lengthily and to drag on the proceedings only, the petitioner has come forward with this petition. The learned trial Judge considered all the aspects in proper perspective. Hence, I do not find any reason to interfere with the order of the trial Court and the trial Court order is well reasoned order. Hence, the order of the trial Court is hereby confirmed and the Criminal Original Petition is dismissed. Consequently, the connected Miscellaneous petition is also dismissed.

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