

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 29-04-2015

CORAM:

THE HONOURABLE MR. JUSTICE P.DEVADASS

CRIMINAL ORIGINAL PETITION NO.11042 of 2015

AND

M.P.NO.1 OF 2015

1.Arumugam
2.Govindasamy

.. Petitioners/Accused

vs.

The State represented by its
Station House Officer,
Vigilance Anti-Corruption Police Station,
Puducherry.

.. Respondent/Complainant

This Criminal Original Petition is filed under Section 482 Cr.P.C., to set aside the order dated 10.4.2015 passed in Crl.M.P.No.981 of 2015 in C.C.No.110 of 2004 on the file of the learned Chief Judicial Magistrate, Puducherry.

For Petitioners : Mr.P.Veeraraghavan

For Respondent : Mr.M.R.Thangavel,
Additional Public Prosecutor
(Puducherry).

O R D E R

A-1 and A-2 in C.C.No.110 of 2004 on the file of the learned Chief Judicial Magistrate, Puducherry aggrieved by the dismissal of their Crl.M.P.No.981 of 2015 filed in C.C.No.110 of 2004 to recall PW-1 seeks revision of the impugned order dated 10.4.2015.

2. Heard the learned counsel for the petitioners and the learned Additional Public Prosecutor, Puducherry.

3. Now the case is proceeding towards its last journey, chief-examination of the Investigation Officer is over.

4. At this juncture, the petitioners wants recalling of PW-1/Shankar to cross-examine him on certain vital aspects, as part of effective defence.

5. The learned Additional Public Prosecutor submits that chief-examination of PW-1 was over nearly a decade ago, now, petitioners wants to procrastinate the trial of the case.

<https://hcservices.ecourts.gov.in/hcservices/>

6. We cannot restrict the stage within which Section 311 Cr.P.C. can be invoked. The principle behind Section 311 Cr.P.C., is

that the required and relevant evidence has to be brought to the notice of the Court by either side to render correct finding and justice. It is extension of principles of natural justice to criminal law.

7. Now in the facts and circumstances, the defence has to be facilitated to put up effective defence, otherwise defence will be prejudiced. We also took note of the submissions of the learned Additional Public Prosecutor. So, striking a balance between the two divergent views, an order with pragmatism has to be passed.

8. In the circumstances, ordered as under:-

(i) The order of the learned Chief Judicial Magistrate, Puducherry passed in CrI.M.P.No.981 of 2015 in C.C.No.110 of 2004 dated 10.4.2015 is set aside;

(ii) The learned Chief Judicial Magistrate, Puducherry will recall PW-1 for his examination on 15.5.2015;

(iii) The said Judge will give reasonable opportunity to both sides.

9. Accordingly the Criminal Original Petition is disposed of. Consequently, the connected miscellaneous petition is closed.

Sd/-
Assistant Registrar

True Copy

Sub Assistant Registrar

Copy to:

1.The Station House Officer,
Vigilance Anti-Corruption Police Station,
Puducherry.

2.The Chief Judicial Magistrate,
Puducherry.

3.The Additional Public Prosecutor,
Puducherry.

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