

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 02.06.2015

CORAM

THE HONOURABLE MR.JUSTICE P.N.PRAKASH

Cr1.OP No.13150 of 2015

and

MP.No.1 of 2015

D.Kannan .. Petitioner (2nd Accused)

Vs

The Inspector of Police,
Central Crime Branch,
Tiruppur

.. Respondent (Complainant)

Prayer:- Criminal Original Petition filed under Section 482 Cr.P.C., to set aside the Order dated 28.10.2014 in C.M.P.No.8196 of 2014 in C.C.No.98 of 2003 passed by the Learned Judicial Magistrate II, Tiruppur, by confirming the order passed by the Learned II Additional District & Sessions Court, Tiruppur in C.R.P.No.23 of 2014 dated 23.04.2015.

For Petitioner

:Mr.V.Sivakumar

For Respondent

:Mr.C.Emalias,

Additional Public Prosecutor

ORDER

Seeking a direction to set aside the Order dated 28.10.2014 in C.M.P.No.8196 of 2014 in C.C.No.98 of 2003 passed by the Learned Judicial Magistrate II, Tiruppur, by confirming the order passed by the Learned II Additional District & Sessions Court, Tiruppur in C.R.P.No.23 of 2014 dated 23.04.2015, the petitioner has come up with this petition.

2.Heard the learned counsel for the petitioner and the learned Additional Public Prosecutor appearing for the respondent.

3.It is seen that the petitioner is the second accused in C.C.No.98 of 2003 and he had filed an application under Section 311 of Cr.P.C to recall and cross examination of witnesses, which was dismissed by the Trial Court on 28.10.2014 by a well considered order. The petitioner challenged the said order by filing a Civil revision petition in CRP.No.23 of 2014 before the Principal District and Sessions Court, Tiruppur and the said Sessions Court has dismissed the above said CRP.No.23 of 2014 on 23.04.2015 by confirming the order passed by the Trial Court.

4.Aggrrieved by the order passed by the Court below, the present application has been filed under Section 482 of Cr.P.C.

Under Section 397(3) of the Cr.P.C., second revision is not maintainable. Nevertheless, an application under Section 482 of Cr.P.C is maintainable, in extraordinary circumstances when it is shown that gross in-justice has occurred to the petitioner, on account of the orders passed by the Court below.

5. On a perusal of the orders passed by the Courts below, it is seen that the offence was registered in the year 2003 and final report was also filed in the year 2003. Since then the accused have been prolonging the case on some pretext or the other. It is noted by the Courts below that the petitioner has deliberately not cross examined the witnesses, though the witnesses were summoned and recalled at the instance of the first accused for cross examination.

6. Taking into consideration all these aspects, the Court below have dismissed the petition. This Court does not find any serious infirmity in the orders passed by the Courts below. Hence, this Criminal Original Petition is dismissed with the above observation. Consequently, connected miscellaneous petition is also closed.

Sd/-
Assistant Registrar

True Copy

Sub Assistant Registrar

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To

1. The II Additional & Sessions Judge,
Tiruppur

2. The Judicial Magistrate No. II, Tiruppur.

3. The Inspector of Police,
Central Crime Branch,
Tiruppur.

4. The Public Prosecutor,
High Court, Madras.

1 cc to Mr.V.Sivakumar , Advocate Sr.No.25951
Crl.OP No.13150 of 2015
and
MP.No.1 and 2 of 2015

EV(CO)
PMK.15.6.2015