

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED 26.06.2015

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THE HONOURABLE MR.JUSTICE P.N.PRAKASH

CRL.OP.No.14798 of 2015  
and M.P.No.1 of 2015

1.Tamilarasi  
2.P.Mohan

... Petitioners

Vs

The State represented by  
Inspector of Police,  
CBCID, Puducherry.

... Respondent

Criminal Original Petition filed under Section 482 of Cr.P.C.,  
praying to set aside the order dated 27.05.2015 made in  
Crl.MP.No.1425 of 2015 in C.C.No.62 of 2003 on the file of the  
Chief Judicial Magistrate Court, Puducherry.

For Petitioners :Mr.C.Prabakaran  
For Respondents :Mr.Thangavel,  
Public Prosecutor [Puducherry]

O R D E R

This petition has been filed to set aside the order dated  
27.05.2015 made in Crl.MP.No.1425 of 2015 in C.C.No.62 of 2003 on  
the file of the learned Chief Judicial Magistrate, Puducherry.

2. Heard the learned counsel for the petitioners; learned  
Additional Public Prosecutor appearing for the respondent and  
perused the materials placed on record.

3. It is seen that the petitioners are facing prosecution for  
offences under Section 419, 420, 468, 471 read with 34 IPC in  
C.C.No.66 of 2003. The trial commenced and the prosecution  
examined all the witnesses and the accused was also examined under  
Section 313 Cr.P.C. Thereafter, the accused filed an application  
under Section 311 Cr.P.C for summoning one Sivashanmugam, Deputy  
Commissioner [Customs], as defense witness. The Hon'ble Supreme  
Court has held in Dr.Rajesh Talwar Vs CBI reported in [2013] 4 MLJ  
Criminal 362 SC that even for examining a witness on the side of  
the defense, the accused cannot make sweeping request and that the  
request must be supported by reasons.

4. In this case, the accused contended that they need to  
examine the said Sivashanmugam for the purpose of confronting with  
Ex.P7, in which, he seems to have attested.

5. The learned Trial Court dismissed the application holding that Ex.P7 has been marked through PW7 who had been subjected to cross examination by the accused and the request for summoning Sivashanmugam as a defense witness is only a ruse to prolong the trial. This Court finds that this case is of the year 2003 and has had a snail's progress all these years. Further, the reasoning given by the Trial Court for refusing to summon Sivashanmugam cannot be said to be illegal or perverse.

6. In the result, this petition is devoid of merits and accordingly, dismissed. Consequently, connected miscellaneous petition is closed.

Sd/-  
Assistant Registrar

//True Copy//

Sub Assistant Registrar

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To

1.The Inspector of Police,  
CBCID, Puducherry.

2. The Chief Judicial Magistrate Court,  
Puducherry.

3.The Public Prosecutor,  
High Court, Madras.

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CRL.OP.No.14798 of 2015

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