

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED 29.7.2015

CORAM

THE HONOURABLE MR.JUSTICE P.N.PRAKASH

CrI.OP.No.19024 of 2015

R.Govindasamy

... Petitioner/Accused

Vs

State rep. By the
Station House Officer,
GRND Bazaar Police Station,
Puducherry.

... Respondent/Complainant

Prayer:- Criminal Original Petition filed under Section 482 of the Code of Criminal Procedure to set aside the order dated 18.04.2015 passed in Cr.M.P.No. 944 of 2015 in C.C.No. 246 of 2011 passed by the learned Chief Judicial Magistrate, Puducherry.

For Petitioner :Mr.M.Shahjahan

For Respondents :Mr.M.R. Thangavel
Additional Public Prosecutor (Pondy)

ORDER

This petition has been filed to set aside the order dated 18.04.2015 passed in Cr.M.P.No. 944 of 2015 in C.C.No. 246 of 2011 passed by the learned Chief Judicial Magistrate, Puducherry.

2. Heard the learned counsel for the petitioner.

3. It is seen that the petitioner is facing a prosecution for certain offences before the learned Chief Judicial Magistrate, Puducherry in C.C.No.246 of 2011 in respect of an incident that is said to have been occurred between the petitioner and Dr.Satyanarayanan. During the course of trial, Dr.Satyanarayanan and his wife were examined as prosecution witnesses. But the petitioner did not choose to examine them. While so, the petitioner has filed an application under Section 91 Cr.P.C calling for certain records from the hospital where Dr.Satyanarayanan was working in the year 2010.

4. The learned Magistrate by a well considered order has dismissed the plea on the ground that it is always open to the petitioner to elicit these facts from LW5-the Doctor, who gave treatment to the injured persons. The learned Magistrate has held

as follows:

"The doctor who gave treatment to the injured person is cited as LW5 and the case is now posted for examination of LW3 to LW5. At the time of examination of the doctor who gave treatment to the victim, the averments raised in the petition can be elucidated by the petitioner advocate. The petition averments can be elucidated by the accused counsel at the time of issuing summons to the doctor who gave treatment to the injured person and more over the treatment given by the Certh India Hospital can be called and marked as defence side witness because the said hospital doctor was not cited as prosecution witness. If the petitioner/accused counsel wanted to prove that the doctor involved in preparing forged documents regarding the treatment to the victim, he is having ample opportunity to cross examine the doctor at the time of examining him a prosecution witness and more over the Certh India Hospital doctor is not shown as prosecution witness in the list of witnesses and he has to be examined as defence witness. Hence at the time of defence witness the petitioner can be cited him as defence witness by the defence counsel and the documents to be brought by the concerned doctor also be listed by the defence counsel and the documents to be brought by the concerned doctor also be listed by the defence counsel in the Process. At that time, this court can consider it and issue summons to the concerned doctor if necessary. Hence at this stage this petition is not maintainable because the doctor LW5 is not yet examined and after examination of the doctor only he can very well cross examined PW1 and PW2 elucidating those points."

5. From the above it is seen that the learned Magistrate has kept the issue open and has not completely closed the doors for the petitioner to claim prejudice.

6. In view of the above, this Court is of the view that there is no merits in this petition. Hence, this criminal original petition is dismissed.

Sd/-
Asst.Registrar (CS III)

/true copy/

Sub Asst. Registrar

To

1. The Chief Judicial Magistrate, Puducherry.
2. Station House Officer,
GRND Bazaar Police Station,
Puducherry.
3. The Public Prosecutor,
High Court, Madras.

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rj(co)
kra(11/08)



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