

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 03.02.2015

CORAM:

THE HON'BLE MR.JUSTICE R.S.RAMANATHAN

Crl.O.P.No.2383 of 2015

And

M.P.No.1 of 2015

Palani

... Petitioner

Vs.

State by Inspector of Police
Oragadam Police Station,
Kanchipuram District.

... Respondent

Prayer :

Criminal Original Petition filed under Section 482 of the Code of Criminal Procedure praying to set aside the order dated 28.10.2014 made in Crl.M.P.No.1484 of 2014 in S.C.No.20 of 2011 on the file of the District and Sessions Court II, Kanchipuram and allow the said Crl.M.P.

For Petitioner : M/s.T.Sathiyamoorthy
For Respondent : Mr.M.Maharaja
Additional Public Prosecutor

ORDER

This petition is filed seeking to set aside the order dated 28.10.2014 made in Crl.M.P.No.1484 of 2014 in S.C.No.20 of 2011 on the file of the learned District and Sessions Court II, Kanchipuram and to allow the said Crl.M.P.

2.The petitioner is an accused in S.C.No.20 of 2011 on the file of the learned District and Sessions Court II, Kanchipuram and he filed petition under Section 311 of Cr.P.C., to recall P.W.1 to P.W.5 for further cross examination and the petition was dismissed by the learned District and Sessions Judge II, Kanchipuram and aggrieved by the same, this criminal original petition has been filed.

3.It is submitted by the learned counsel for the petitioner that P.W.1 to P.W.5 were examined on 16.03.2012 and thereafter there were several adjournments and P.W.1 to P.W.3 were cross examined on 15.07.2014 and P.W.4 to P.W.7 were cross examined on 18.07.2014. The counsel who cross examined P.W.1 to P.W.7 did not effectively carry out the cross examination and therefore, petitioner changed his

counsel and the new counsel wants to cross examine witness and for that purpose petition is filed. He therefore submitted that date may be fixed and on that date P.W.1 to P.W.5 may be summoned and the petitioner would cross examine the witness.

4.Heard the learned Additional Public Prosecutor appearing for the respondent.

5.I am unable to accept the contention of the learned counsel for the petitioner. In the petition filed before the learned District and Sessions Judge II, Kanchipuram, it was stated that some important questions were omitted to be asked to the witnesses and therefore the witnesses have to be recalled. The reasons now stated in the petition were not stated before the learned District and Sessions Judge II, Kanchipuram. Further, P.W.1 to P.W.5 were examined in the year 2012 and were cross-examined in July, 2014 and the case was posted for questioning under Section 313 of Cr.P.C., and at that stage, petition is filed. Reason now stated for cross-examination is that the petitioner engaged new counsel and therefore, they wanted to cross-examine.

6.According to me, if the witnesses were permitted to be cross-examined by changing counsel, there will not be any end for the trial. Hence, I do not find any merit in the petition and this petition is dismissed. Consequently, the connected miscellaneous petition is closed.

-s/d-

Deputy Registrar(J)

Dt:12/2/2015

True Copy

Sub-Assistant Registrar

To

1. The Inspector of Police
Oragadam Police Station,
Kanchipuram District.
2. The District and Sessions Court II,
Kanchipuram.
3. The Public Prosecutor
High Court, Madras.

+ 1 cc to Mr.T.Sathyamoorthy, Advocate SR 5695

cnr(co)
prk16/2

Cr1.O.P.No.2383 of 2015 & M.P.No.1 of 2015