

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 23.03.2015

CORAM

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

Crl.O.P.No.7087 of 2015 and
M.P.No.1 of 2015

T.Thanigasalam

...Petitioner

vs.

The Station House Officer (SHO)
The UT of Puducherry
Grand Bazaar Police station,
JN Street, Puducherry.

...Respondent

Criminal Original Petition filed under Section 482 of the Criminal Procedure Code praying to call for the records relating to the impugned order dated 30.01.2015 passed by the learned Chief Judicial Magistrate at Puducherry and set aside the same and consequently allow the application filed by the petitioner in Cr.M.P.No.6 of 2015 in C.C.No.9 of 2012 on the file of the learned Chief Judicial Magistrate, Puducherry under Section 311 of Cr.P.C., for seeking permission to recall the evidence of PW1 and PW6 and pass further orders.

For Petitioner : Mr.Prakash Adiapadam

For Respondent : Mr.J.Kumanan
Government Advocate (Pondy)

सत्यमेव जयते
O R D E R

This Petition is filed to set aside the order passed in Cr.M.P.No.6 of 2015 in C.C.No.9 of 2012 on the file of the learned Chief Judicial Magistrate, Puducherry.

2. It is submitted by the learned counsel for the petitioner that on the complaint given by Anusuya @ Anjalatchi, the case has been registered against the petitioner for offences under Sections 294, 387 r/w 34 of IPC and in that case, the defacto complainant was examined as P.W.1 and after examining other witnesses, the Investigation Officer was examined as P.W.6. He further submitted that originally P.W.1 was not cross-examined and thereafter on the petition filed by the petitioner, P.W.1 was re-called and cross-

examined on 02.07.2014 and P.W.6, Investigation Officer was also cross-examined at that date. After the questioning under Section 313 Cr.P.C., was over and when the case was posted for defense witness, the petitioner filed an application under Section 311 of Cr.P.C., to re-call P.W.1 and P.W.6 for cross-examination so as to put some important question and that petition was dismissed. Aggrieved by the same, the petitioner has filed this Petition.

3.The learned counsel for the petitioner also submitted that in the counter filed by the respondent/Prosecution, the only reason stated was that P.W.1 is a old lady and she may not be in a position to re-call the case and P.W.6, Inspector of Police has become Circle Inspector of Police and posted in the other place, therefore, the reasons stated in the counter affidavit is not accepted and without giving fair opportunity to cross-examine the witness, the learned Magistrate dismissed the petition.

4.I am unable to accept the contention of the learned counsel for the petitioner. Admittedly, P.W.1 was examined on 20.09.2012 and she was re-called and cross-examined on 02.07.2014. Similarly, P.W.6 was examined and cross-examined on the same day, namely, 24.02.2014. Thereafter, questioning under Section 313 Cr.P.C., was over and when the case was posted for defense witness, the application was filed stating with some reasons, which cannot be a reason and no explanation has been given by the learned counsel for the petitioner for not taking steps to re-call P.W.1 or P.W.6 for more than 4 months and 10 months respectively after they were cross-examined.

5. As rightly held by the lower court, the application was filed only to drag on the matter. Hence I do not find any merits in the petition and the same is dismissed. Consequently, connected miscellaneous petition is closed.

-s/d-

Assistant Registrar(CS-II)

Dt:6/4/2015

True Copy

Sub-Assistant Registrar

To

1. The Chief Judicial Magistrate,
Puducherry.
2. The Station House Officer,
Grand Bazaar Police Station,
JN STreet, Puducherry.

3. The Public Prosecutor (Pondicherry),
High Court, Madras.

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