



BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

DATED: 26.08.2015

CORAM:

THE HONOURABLE MS.JUSTICE R.MALA

Criminal Original Petition(MD) No.16439 of 2015

Balu : Petitioner/Petitioner

Vs.

The State rep. by
The Inspector of Police,
Perunali Police Station,
Ramanathapuram District.

:Respondent/Complainant

Prayer: Criminal Original Petition is filed under Section 482 of Cr.P.C., praying to set aside the order passed by the learned Judicial Magistrate, Kamuthi in Crl.M.P.No.1368 of 2015 in C.C.No.65 of 2008 and pass such other or further orders as this Court may deem and fit in the circumstances of the case.

For Petitioner :Mr.A.Uthayakumar

For Respondents :Mr.P.Kannithevan

Government Advocate(Crl. Side)

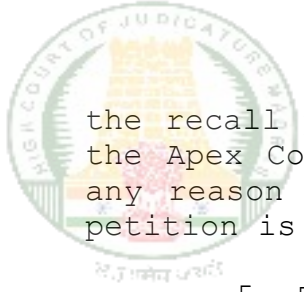
O R D E R

The petitioner has come forward with this petition praying to set aside the order passed by the learned Judicial Magistrate, Kamuthi in Crl.M.P.No.1368 of 2015 in C.C.No.65 of 2008.

2. The learned counsel for the petitioner would submit that the petitioner, who is the sole accused, is facing trial for the offence under Section 324 IPC and the witnesses were examined and the accused has not cross examined the witnesses 1, 2 and 6 and hence, he filed this application for recalling them and without considering the same the trial court dismissed the said application and hence, prayed for setting aside the order of the trial Court.

3. Heard the learned Government Advocate(Crl.side).

4. Considering the rival submissions and on perusal of typed set of papers, it is seen that after completion of investigation charge sheet has been laid in the year 2008 and P.W.1 was examined on 07.09.2009 and P.W.6 was examined on 13.04.2015 and the prosecution evidence has been closed on 18.04.2015. When the matter was posted for 313 Cr.P.C questioning, this application has been filed for recalling P.W.1, 2, and 6 after six years. In the order of the trial Court, the learned Judge has held that the availability of P.W.1 and 2 is not known and whether they are alive or not is also not known. It is further held that in the petition, no reason has been assigned for the delay of 6 years in filing



the recall petition. The trial Court rightly considered the decisions of the Apex Court and came to the correct conclusion. Hence, I do not find any reason for interfering with the order of the trial and hence, this petition is dismissed.

5. This Criminal Original Petition is disposed of with the above direction.

Sd/-

Assistant Registrar (CO)

/True Copy/

Sub Assistant Registrar

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To,

1. The District Munsif-Cum,
Judicial Magistrate, Kamuthi.
2. The Inspector of Police,
Perunali Police Station,
Ramanathapuram District.
3. The Additional Public Prosecutor,
Madurai Bench of Madras High Court, Madurai.

GJM/AN/MP/SAR(J) 9.9.15-2p-4C

Order made in
Crl.O.P. (MD) No.16439 of 2015
Dated:26.08.2015