



BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

DATED: 20.04.2015

CORAM

THE HONOURABLE MR.JUSTICE M.M.SUNDRESH

Crl.O.P. (MD) No.4544 of 2015
and M.P. (MD) Nos.1 and 2 of 2015

WEB COPY

M.Sundarapandian

...Petitioner/Petitioner/A3

Vs.

The State rep. by the
Inspector of Police,
(CCIW CID)
Virudhunagar....Respondent/Respondent/
Complainant

PRAYER: Criminal Original Petition is filed under Section 482 of the Code of Criminal Procedure to call for the records pertaining to the order dated 24.02.2015 made in Cr.M.P.No.1381 of 2015 in C.C.NO.184 of 2003 on the file of the Judicial Magistrate No.II, Virudhunagar and set aside the same and pass such further or other orders as this Court may deem fit and proper in the circumstances of the case.

For Petitioner : Mr.K.Seemaraj
For Respondent : Mr.K.Anbarasan
Govt. Advocate (Crl.side)

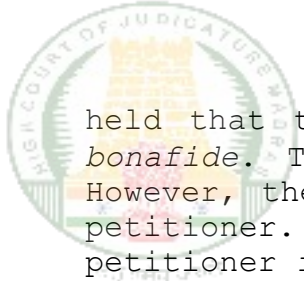
O R D E R

This Criminal Original Petition is filed seeking to set aside the order dated 24.02.2015 made in Cr.M.P.No. 1381 of 2015 in C.C.NO.184 of 2003 on the file of the Judicial Magistrate No.II, Virudhunagar.

2.The petitioner, who is arrayed as A3, has filed this petition challenging the order of rejection of the petition filed under Section 311 Cr.P.C. A perusal of the order passed would show that prosecution has examined 35 witnesses and marked 269 documents and prosecution side evidence was closed on 3.7.2014 and when the case was posted for defence witness, the first accused has filed a petition under Section 311 Cr.P.C to recall P.W.1 to P.W.18. The said application was allowed. Another application was filed by the first accused after completion of cross examination of re-called witnesses to recall P.W.20 to P.W.32.

3. During the said period, the petitioner has not chosen to examine any of the prosecution witnesses. The first accused has completed the cross examination of witnesses on 16.02.2015. Thereafter, the petitioner has filed the present petition to recall PWs. 4, 5, 6, 8, 14, 15, 19, 33 and 35. The only reason stated in the application filed is that since the case having been involved so many documents and statements, he could not cross examine the witnesses earlier.

4.The court below has rightly rejected the application. The petitioner has not availed opportunities on last two occasions. He could have at least examined the witnesses, who have been recalled at the instance of the first accused. Therefore, the trial court has rightly



held that the conduct of the petitioner in conducting the case is not *bonafide*. The order of the court below does not warrant interference. However, the court below is directed not to insist the appearance of the petitioner. Whenever, the presence of the petitioner is required, the petitioner is directed to appear before the court.

5. In the result, this Criminal Original Petition is dismissed. Consequently, connected M.P.s are also dismissed.

Sd/-

Assistant Registrar(CO)

/True copy/

Sub Assistant Registrar

To

1. The Judicial Magistrate No.II, Virudhunagar
2. The Inspector of Police, (CCIW CIW) Virudhunagar.
3. The Additional Public Prosecutor, Madurai Bench of Madras High Court, Madurai.

+1CC to M/s.K.Seemaraj, Advocate in SR.20800

Cr1.O.P. (MD) No.4544 of 2015
and M.P. (MD) Nos. 1 and 2 of 2015
20.04.2015

ses.

PBK 08/05/2015 ::2P-5C: