

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 17.11.2016

CORAM

THE HON'BLE MR.JUSTICE P.N.PRAKASH

Crl.O.P. No.25132 of 2016

Nandheeswaran

Petitioner/Accused-1

vs.

State rep by
The Inspector of Police
Veppannapalli Police Station
Krishnagiri District.

Respondent/Complainant

Criminal Original Petition filed under Section 482, Cr.P.C. to set aside the order passed in Crl.M.P.No.37 of 2015 in S.C.No.122 of 2008 on the file of the learned Additional District Judge, Krishnagiri dated 07.10.2016.

For petitioner Mr.L.Baskaran

For Respondent Mr.C.Emalias
Additional Public Prosecutor

ORDER

This petition has been filed to to set aside the order passed in Crl.M.P.No.37 of 2015 in S.C.No.122 of 2008 on the file of the learned Additional District Judge, Krishnagiri dated 07.10.2016.

2. Heard the learned counsel for the petitioner and the learned Additional Public Prosecutor appearing for the State.

3. The petitioner is facing trial in S.C.No.122 of 2008 before the Additional District Court, Krishnagiri for various offences, including one u/s 302 IPC. The prosecution examined the witnesses and they were also cross examined by the accused. After closure of the prosecution evidence, the accused was examined u/s 313 Cr.P.C. Thereafter, on 29.08.2016, in Crl.MP No.37 of 2016, the accused filed an application u/s 311 Cr.P.C. to recall P.Ws.1,4,5,6,11,23 and 24, which has been dismissed by the trial Court on 07.10.2016, aggrieved by which, the petitioner is before this court.

4. The learned counsel for the petitioner fairly submitted that the prosecution witnesses were cross examined, but the accused wanted to confront them with certain documents relating to civil disputes.

5. In State of Haryana v. Ram Mehar [(2016) 8 Scale 192], the Supreme Court has clearly laid down the parameters under which the powers u/s 311 Cr.P.C. can be invoked. A prosecution witness cannot be summoned again and again at the whims and fancies of the accused.

6. In the petition filed in CrI.M.P. No.37 of 2016, the accused has not even given any good reasons, except making a bald statement that he was not able to cross examine the witnesses with regard to certain civil disputes and relevant documents. On the strength of such a bald statement, the prosecution witnesses cannot be summoned. That apart, it is not a case where the petitioner did not cross examine the witness at all.

7. Under such circumstances, the petitioner has not made out a case for recalling the aforesaid witnesses. Accordingly, this petition is dismissed.

It is seen that the offence in this case had taken place in the year 2007 and the trial is pending from 2008. Hence, the trial Court is directed to expeditiously complete the trial in S.C.No.122 of 2008.

Sd/-
Asst.Registrar

/true copy/

Sub Asst. Registrar

gms

To

1.The Inspector of Police
Veppanapalli Police Station
Krishnagiri District.

2.The Additional District Judge,
Krishnagiri.

3.The Public Prosecutor,
High Court, Madras.

+1cc to Mr.L.Baskaran, Advocate Sr.66994

CrI.O.P. No.25132 of 2016

SR(CO)
RVR 15/12/2016