

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED 14.06.2016

CORAM

THE HONOURABLE Mr.JUSTICE P.N.PRAKASH

Crl.O.P.No.5211 of 2016

Anbu

... Petitioner

Vs.

State rep by
The Station House Officer,
R-9, Valasaravakkam Police Station,
Chennai.

.... Respondent

Criminal Original Petition filed under Section 482 of Cr.P.C., to set aside the order passed by the learned Principal District & Sessions Judge, Tiruvallur in Crl.M.P.No.3213/2015 dated 15.12.2015 in S.C.No.2/2012 and direct to recall the prosecution witness PW8 Mrs.Priya, Judicial Magistrate, PW9 Dr.Harris Santha Seelan, PW11 Mr.Mahadevan, S.I. of Police and PW12 Mr.A.Sivakumar, the Inspector of Police for cross examination.

For Petitioner : No appearance

For Respondent : Mr.C.Emalias

Addl.Public Prosecutor

O R D E R

This Criminal Original Petition is filed seeking to set aside the order dated 15.12.2015 passed in Crl.M.P.No.3213 of 2015 in S.C.No.2 of 2012, pending on the file of the Principal District & Sessions Judge, Tiruvallur.

2. When the matter was called on 09.03.2016, 07.04.2016 and 10.06.2016, there was no representation for the petitioner. Thereafter, the matter was posted under the caption 'for dismissal' today. Today also, there was no representation for the petitioner. Hence, this Court perused the records and heard the Additional Public Prosecutor.

3. It is seen that this petitioner is facing trial in S.C.No.2 of 2012 for an offence under Section 302 IPC before the learned Principal District & Sessions Judge, Tiruvallur. The petitioner filed a petition in Crl.M.P.No.2702 of 2014 in S.C.No.2 of 2012 under Section 311 Cr.P.C. for recalling P.W.5

and 8 to 12 for further cross-examination, which was dismissed by the trial Court on 18.08.2014. Challenging the order, the petitioner filed Crl.O.P.No.30792 of 2014 and this Court by a detailed order confirmed the order passed by the trial Court and dismissed the petition on 24.11.2014. Thereafter, the petitioner has filed Crl.M.P.No.3213 of 2015 under Section 311 Cr.P.C. for recalling P.W.8, P.W.9, P.W.11 and P.W.12 before the trial Court, which was dismissed by the trial Court on 15.12.2015. Challenging which, the petitioner is before this Court.

4. On perusal of the records, it is seen that the witnesses were examined as early as on 25.03.2014 and that the petitioner has already examined the witnesses and in order to delay the trial, he has filed the present petition. In the present petition, the petitioner has suppressed the fact that he had filed Crl.O.P.No.30792 of 2014 for the same relief before this Court.

5. In the light of the aforesaid fact, this Court does not find any infirmity in the order passed by the trial Court and this petition stands dismissed. The trial Court is directed to proceed with the trial under Section 309 Cr.P.C. and complete the same expeditiously. If the petitioner absconds, a fresh FIR should be registered against him under Section 229A IPC and take action in accordance with law. If the petitioner adopted any dilatory tactics, it is open to the trial Court to remand the petitioner to custody as held by the Hon'ble Supreme Court in State of Uttarpradesh Vs Shambu Nath Singh reported in JT 2001 [4] SC 319.

gya

s/d-
Assistant Registrar

True Copy

Sub-Assistant Registrar

To

1.The Principal District & Sessions Judge,
Tiruvallur.

2. The Station House Officer,
R9, Valasaravakkam, Police Station,
Chennai.

3.The Public Prosecutor,
High Court, Madras.

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