

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED:07.06.2016

CORAM

THE HONOURABLE MR.JUSTICE P.N.PRAKASH

Crl.OP.No.9976 of 2016

and

Crl.M.P.No.5282 of 2016

Ravishankar

..Petitioner

Vs.

State rep by
The Inspector of Police
NIB CID, Chennai.

... Respondent

Prayer:- Criminal Original Petition filed under Section 482 Cr.P.C., to set aside the order made in Crl.M.P.No.1811 of 2015 in C.C.No.8 of 2005 dated 04.04.2016.

For Petitioner : Mr.A.Balamurugan

For Respondent : Mr.C.Emalias,
Addl.Public Prosecutor

O R D E R

This petition has been filed to direct the respondent to set aside the order made in Crl.M.P.No.1811 of 2015 in C.C.No.8 of 2005 dated 04.04.2016.

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

3. It is seen that the petitioner is facing trial for offences u/s 8(c) r/w 21(c), 29 and 25 of NDPS Act in C.C.No.8 of 2005 before the Principal Special Judge for NDPS cases, Chennai. The prosecution examined P.W.11 - the Investigating Officer on 28.01.2014, on which date even, he was not in a position to give evidence because of his physical condition. The matter relates to an FIR which was registered in the year 2003 in connection with an incident which took place on

26.12.2003. Therefore, after more than ten years when P.W.11 was examined-in-chief, he must have probably fallen sick. The accused had not used that opportunity to cross examine P.W.11 in 2014 and now in the year 2016, the accused has filed applications in Crl.M.P.Nos.1811/2015 and 2218/2015 for the purpose of recalling P.W.11 and for appointment of a Commissioner for examining P.W.11, which came to be dismissed by the trial Court on 04.04.2016, challenging which the accused is before this Court. The Hon'ble Supreme Court in Vinoth Kumar v. State of Punjab [(2015) 1 MLJ (crl) 288] has held that a witness has to be cross examined on the day when he is examined-in-chief and no dilatory tactics should be adopted by the accused.

4. In this case, the incident is of the year 2003. The Final Report was filed in 2005 and the trial has prolonged till 2016. The accused did not cross examine the witness and P.W.11 was examined in 2014 and after having missed the bus, they have now approached the trial Court for recalling the witness. This Court does not find any infirmity in the order passed by the court below.

In the result, this Criminal Original Petition stands dismissed. Consequently, connected miscellaneous petition is closed.

gms

Sd/-
Assistant Registrar

//True Copy//

Sub Assistant Registrar

To

1.The Inspector of Police
NIB CID, Chennai.

2.The Public Prosecutor,
High Court, Madras.

KR/4/7/16

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