



WEB COPY

BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

DATED : 18.10.2016

CORAM

THE HONOURABLE MR.JUSTICE K.KALYANASUNDARAM

Crl.O.P(MD)No.19692 of 2016

and

Crl.M.P(MD)No.9969 of 2016

Thesinguraja

: Petitioner / Sole Accused

-Vs-

State through the Inspector of Police,
Sivagangai Taluk Police Station,
Sivagangai.

: Respondent/ Complainant

PRAYER: Petition is filed under Section 482 of the Code of Criminal Procedure, to set aside the order passed in Crl.M.P.No.339 of 2016, dated 06.04.2016 in S.C.No.87 of 2011 on the file of the Sessions Judge, Fast Track Court, Sivagangai.

For Petitioner : Mr.A.V.Arun
For Respondent : Mr.K.Anbarasan
Government Advocate
(Criminal side)

O R D E R

This petition is filed to set aside the order passed in Crl.M.P.No.339 of 2016 in S.C.No.87 of 2011, dated 06.04.2016 on the file of the Sessions Judge, Fast Track Court, Sivagangai.

2.The learned counsel appearing for the petitioner would submit that the petitioner has filed a petition under Section 311 of Cr.P.C. To recall PW1, PW2 and PW11 for the purpose of cross examination, but the trial court, without any proper reason, has passed the order stating that PW1 and PW2 were already cross examined thoroughly and the plea to recall PW11 alone is sustainable. Hence, he prayed that the order passed by the trial court has to be set aside and this petition has to be allowed.

3.The learned Government Advocate (Criminal side) appearing for the respondent would contend that the petitioner was already granted sufficient time to cross examine PW1 and PW2, but he has not availed the opportunity and only to drag on the proceedings, the present petition has been filed. Hence, he prayed for the dismissal of the petition.



4. Heard both sides and perused the materials available on record.

5. It is seen from the records that the petitioner has filed the petition under Section 311 Cr.P.C to recall the witnesses PW1, PW2 and PW11 for the purpose of cross examination. In this case, PW1 and PW2 have been cross examined as early as in the year 2011 and 2012 respectively and PW11, the Investigation Officer alone has to be cross examined on the side of the petitioner. Considering the above facts, the trial court has dismissed the recall application in respect of PW1 and PW2 and allowed the recall petition in respect of PW11 alone.

6. This court is of the considered view that the impugned order, dated 06.04.2016 passed by the trial court do not call for any interference by this court. Accordingly, this petition is dismissed. Consequently, connected Miscellaneous Petition is closed.

Sd/-

Assistant Registrar (CO)

/True copy/

Sub Assistant Registrar

To:

1. The Inspector of Police,
Sivagangai Taluk Police Station,
Sivagangai.
2. The Sessions Judge,
Fast Track Court,
Mahila Court, Sivagangai
3. The Additional Public Prosecutor,
Madurai Bench of Madras High Court,
Madurai.

ER

PSM/KP/SAR2//18.07.2017/2P/4C

Cr1.O.P. (MD) No.19692 of 2016
18.10.2016