

IN THE HIGH COURT OF JUDICATURE AT MADRAS

Dated: 05.01.2017

Coram

THE HONOURABLE MR. JUSTICE R.MAHADEVAN

Crl.O.P.No.202 of 2017

Yuvaraj

.. Petitioner/Petitioner/Accused

Vs.

State rep. by its
the Inspector of Police,
Negamam Police Station
Pollachi Sub Division,
Coimbatore District.

... Respondent/Respondent/Complainant

Prayer:- Criminal Original Petition filed under Section 482 Cr.P.C to set aside the order dated 18.11.2016 in Cr.M.P.No.5775 of 2016 in S.T.C.No.1616 of 2011 passed by the learned Judicial Magistrate No.II, Pollachi which the prayer of the petitioner for recalling the prosecution witnesses No.PW1, PW2 for further cross examination.

For Petitioner :Mr.P.Kalimuthu

For Respondent :Mr.C.Emalias, APP

ORDER

Challenging the order dated 18.11.2016 passed by the learned Judicial Magistrate No.II, Pollachi in Crl.M.P.No.5775 of 2016 in STC No.1616 of 2011, the present Criminal Original Petition came to be filed.

2.It is the case of the petitioner that he is facing trial before the learned Judicial Magistrate No.II, Pollachi in S.T.C.No.1616 of 2011 for the alleged offences punishable under Sections 294(b), 323 and 353 IPC. During the course of trial, he filed a petition in C.M.P.No.5775 of 2016 under Section 311 Cr.P.C seeking to cross examine PW1 and PW2. However, the said petition was dismissed by the learned Judicial Magistrate No.II, Pollachi, by the order impugned herein. Hence, this petition by the petitioner.

3.Heard the learned counsel for the petitioner and the learned Additional Public Prosecutor appearing for the respondent.

4.A perusal of the order impugned in this petition would reveal that the petitioner has approached the learned Magistrate concerned for cross examination of PW1 and PW2 by filing Section 311 Cr.P.C petition, after a lapse of 3 years in the case of PW1 and 3 years and 6 months insofar as PW2 was concerned, whose chief examination was recorded on 5.11.2013 and 06.02.2014 respectively. Further, he has not adduced any valid reason for such a long delay. Hence, the learned Magistrate has rejected the request of the petitioner, in the light of the observation of the Hon'ble Supreme Court reported in (2015) 3 SCC 220 (Vinoth Kumar v. State of Punjab). This Court finds no reason to interfere with the order so passed by the learned Magistrate, as the same is perfectly correct and in accordance with law.

5.In the result, this petition stands dismissed.

sd/
Assistant Registrar

/true copy/

Sub Assistant Registrar

rk

To

1.Judicial Magistrate No.II, Pollachi.

2.The Inspector of Police,
Negamam Police Station
Pollachi Sub Division,
Coimbatore District.

3.The Public Prosecutor, High Court, Madras-104.

+1cc to Mr.Kalimuthu Advocate SR.No.1839.

Cr1.OP.No.202 of 2017

CNR(CO)
GN(10/02/2017)