

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 18.07.2017

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THE HONOURABLE MR. JUSTICE M.S. RAMESH

CRL.O.P.Nos. 8430 of 2017 & 7899 of 2017
and
Crl.M.P. Nos.6033 of 2017 & 5710 of 2017

1. Anand @ S. Vijay Anand
2. G. Manojkumar ..Petitioners
(in two Crl.OPs)

Vs

State rep.by
Inspector of Police,
Thudiyalur Police Station,
Coimbatore District .. Respondent
(in two Crl.OPs)

PRAYER in Crl.OP.No. 8430 of 2017: Criminal Original Petition filed under Section 482 of Cr.P.C, praying to set aside the order passed in Crl.M.P. No. 12 of 2017 in S.C. No. 107 of 2015 on the file of the learned I Additional District and Sessions Court, Coimbatore.

PRAYER in Crl.OP.No. 7899 of 2017: Criminal Original Petition filed under Section 482 of Cr.P.C, praying to set aside the order passed in Crl.M.P. No. 13 of 2017 in S.C. No. 107 of 2015 on the file of the learned I Additional District and Sessions Court, Coimbatore.

For Petitioner : M/s.V.Purushothaman
(in two Crl.OPs)

For Respondent : Mr.P.Govindarajan
(in two Crl.OPs) Additional Public Prosecutor

COMMON ORDER

The learned I Additional District Judge, Coimbatore had allowed three Miscellaneous Petitions in CMP. Nos. 5/2017, CMP.No. 12/2017 and CMP.No. 13 of 2017, seeking for recall of PW 23 for further cross examinations, production of additional documents and recall of PW 1, 2, 11,21, 22 and the additional witness Dr. Prasanna Kumar for cross examination.

2. Aggrieved against the same, the petitioners, who are accused have filed the present petition.

3. The learned counsel for the petitioners opposed the order passed by the trial Court and submitted that the trial Court has failed to consider that the prosecution has not fulfilled the provisions of Section 294 Cr.PC in order to prosecute under Section 173(5) Cr.PC.

4. The learned counsel for the petitioners submitted that these Miscellaneous Petitions were filed at a very belated stage in order to fill up the lacunae and hence should not be permitted to do so.

5. The learned Additional Public Prosecutor submitted that no prejudice would be caused to the petitioner /accused ,if these petitions are allowed.

6. I have carefully considered the submissions made by the both counsel. At the outset, it would be relevant to point out that a petition for examining witnesses has to prove the fact beyond reasonable doubt.

7. I do not find any reasons as to how the petitioners/accused will be prejudiced by such an order being passed by the trial Court. However since, the learned counsel for the petitioners had raised a ground that after belated stage, these petitions were filed, I am of the considered view, that by granting the stipulated time for cross examination of witness and production of additional documents, ends of justice would be met.

8. In view of the same, the Criminal Original Petition stands dismissed.

However, the trial Court is directed to ensure that the recall of PW 23 for further cross examination, production of additional documents and recall of PW 1, 2, 11,21, 22 and the cross examination of additional witness Dr. Prasanna Kumar shall be completed within a period of two weeks from the date of receipt of a copy of this order. Consequently, the connected Miscellaneous Petitions are also closed.

Sd/-
Assistant Registrar(CO)

//True Copy//

Sub Assistant Registrar

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To

1. The Inspector of Police,
Thudiyalur Police Station,
Coimbatore District .
 2. The Public Prosecutor,
High Court, Madras.
 3. The Ist Additional District and Sessions Court,
Coimbatore
- + 2 ccs to Mr.V. Purushothaman, Advocate Sr.50387

CRL.O.P.Nos. 8430 of 2017 & 7899 of 2017

SK(CO)
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