



BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

DATED: 11.09.2017

CORAM :

THE HONOURABLE MR.JUSTICE V.BHARATHIDASAN

WEB COPY

Crl.O.P(MD) Nos.11356 and 11357 of 2017

and

Crl.M.P(MD)Nos.7803 and 7804 of 2017

R.Sobana Jai ... Petitioner in Crl.O.P(MD)No.11356 of 2017
Rajesh Kumar ... Petitioner in Crl.O.P(MD)No.11357 of 2017
Petitioner / Accused No.8

Vs.

State rep by its
The Inspector of Police,
E.O.W.II, Nagercoil,
Kanyakumar District.
Crime No.3 of 2006

... Respondent in both Crl.R.Cs
Respondent Complainant.

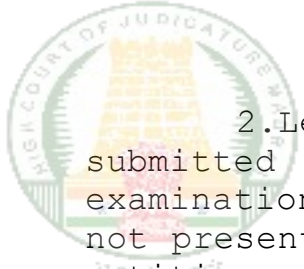
Petitions filed under Section 482 Cr.P.C., to set aside the order dated 09.06.2017 made in Crl.M.P.Nos.2031 and 2305 of 2017 in C.C.Nos.94 of 2008 and 11 of 2009 respectively on the file of the Special Judge, TANPID Cases, Madurai insofar as it relates to imposition of conditions on the petitioners.

For Petitioners : Mr.S.Gokulraj

For Respondent : Mr.C.Mayilvahana Rajendran,
(In both Crl.O.Ps) Additional Public Prosecutor.

ORDER

The petitioners are the accused in C.C.Nos.94 of 2008 and 11 of 2009 respectively pending on the file of the Sub Court, TANPID Act, Madurai. During the trial, the petitioners have cross examined P.Ws.57, Registrar of Companies and P.W.58, the Inspector of Police. After completion of closing of evidence, the petitioners have filed an applications under Section 311 Cr.P.C and the said applications were allowed by the Sub Court, TANPID Act, Madurai with a condition that the petitioners should cross examine P.Ws.57 and 58 on 27.06.2017 and also fixed time limit for completion of cross examination. But according to the petitioners on 27.06.2017, those two witnesses did not present before the Court below and hence, the matter was adjourned. Thereafter, on 25.07.2017 both the witnesses were present but the petitioners did not cross examine them. In the above circumstances, the petitioners filed the present petitions seeking to modify those conditions and to cross examine P.Ws.57 and 58.



2.Learned counsel for the appearing for the petitioners submitted that even though the Court fixed the date for cross examination on 27.06.2017, on that date, both the witnesses did not present and when the witnesses were present on 25.07.2017, the petitioners could not able to cross examine them and hence, in order to prove his defence, opportunity should be given to the petitioners.

3.Per contra, learned Additional Public Prosecutor appearing for the respondent would contend that even though those witnesses did not present on 27.06.2017, on the subsequent date, the petitioners deliberately failed to cross examine them and thereafter, entire trial is over and the evidence is closed and the matter is posted for arguments on 14.09.2017. Hence, the present petitions have been filed seeking modification of the conditions only to drag on the proceedings.

4.I have considered the rival submissions made on either side.

5.Admittedly, the petitioners already cross examined both the witnesses. Thereafter, the petitioners filed an application to recall those witnesses and the Court below has also allowed the applications and in order to avoid unnecessary delay, the Court below fixed a time limit. On the date fixed by the Court below the witnesses were not present but subsequently, they have present. When the witnesses were present on that date, the petitioners did not cross examine them without any reason whatsoever. Now it is submitted that the entire witnesses were examined and the evidence was also closed and the matter was posted for arguments, at this stage, the petitioners filed the present applications.

6.Considering the fact that the petitioners already cross examined P.Ws.57 and 58 and even in the petitions filed by the petitioners it is not stated for what purpose they want to cross examine them. Even then the Court below allowed the applications and given an opportunity to the petitioners but they did not utilise that opportunity to cross examine the witnesses. In the said circumstances, now the petitioners cannot seek for modification of the order passed by the Court below.

7.Accordingly, the Criminal Original Petitions are dismissed. Consequently, CrI.M.P(MD)Nos.7803 and 7804 of 2017 are closed.

Sd/-

Assistant Registrar(crl side)



To

1. The Special Judge, TANPID Cases, Madurai.
2. The Inspector of Police,
E.O.W.II, Nagercoil,
Kanyakumar District.
3. The Additional Public Prosecutor,
Madurai Bench of Madras High Court,
Madurai.

+1cc to Mr.Vijayakumar, Advocate SR.No.78207

SMS

VB/SV/MMS/SAR2/25/09/2017/3P/5C

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