

**BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT**

DATED: 16.06.2017

CORAM:

THE HONOURABLE MR. JUSTICE P.N. PRAKASH**CrI.O.P. (MD) No. 7325 of 2017****&****CrI.M.P. (MD) .No. 4984 of 2017**Pavul Sugirtharaj : Petitioner/4th Accused

Vs.

The State through
Inspector of Police,
Lalgudi Police Station,
Lalgudi, Trichy District.

: Respondent/Complainant

Prayer : Criminal Original Petition is filed under Section 482 of the Code of Criminal Procedure to call for the records pertaining to CrI.M.P.No.488/2017 in C.C.No.84/2011 on the file of the Judicial Magistrate, Lalgudi and set aside the order passed in CrI.M.P.No.488/2017, in C.C.No.84/2011, dated 28.02.2017 and allow the same.

For Petitioner : Mr.S.Muthumalai Raja

For Respondent : Mr.K.Anbarasan
Government Advocate (Criminal Side)**ORDER**

The petitioner is facing prosecution in C.C.No.84 of 2011 for offence under Sections 420, 464, 120(B), 109 and 506(ii) IPC. While so, the prosecution examined PW12 in chief on 20.09.2016. At that time, the accused did not cross-examine P.W.12, who is none other than the Sub Inspector of Police, who assisted the Inspector of Police in the investigation of the offence. After the prosecution side witness closed, the accused have to be examined under Section 313 Cr.P.C. At that juncture, the accused filed CrI.M.P.No.488 of 2017 in C.C.No.84 of 2011, to recall PW12 for the purpose of cross-examination. The said petition has been dismissed by the Trial Court by the well consider order dated 28.02.2017. Challenging which, the accused is before this Court.

2. Heard the learned counsel for the petitioner/accused and the learned Government Advocate (Criminal Side) for the respondent.

<https://hcservices.ecourts.gov.in/hcservices/>

3. The learned counsel for the petitioner/accused submitted that if one opportunity is given to the accused to cross-examine

PW12, it would serve the interest of justice.

4. This Court gave its anxious consideration to the rival submissions. The fact remains PW12 is not an eyewitness to the incident. He has only assisted the Inspector of Police in the investigation of the witnesses. In fact, even in the petition filed under Section 311 Cr.P.C., the accused have clearly stated that the documents in question were submitted by PW1 himself though the Public Prosecutor and the same has been marked in the Court as exhibit. PW1 has also been subjected to cross-examination by the accused. In such circumstances, the evidence of PW12 with regard to the receipt of those alleged documents pales into insignificance.

5. In the result, this Court finds no infirmity in the order passed by the Court below warranting interference by this Court. The Criminal Original Petition is dismissed. Consequently, connected miscellaneous petition is closed.

Sd/-
Assistant Registrar(Record)

/True Copy/

Sub Assistant Registrar

To

1.The Judicial Magistrate, Lalgudi.

2.Inspector of Police,
Lalgudi Police Station,
Lalgudi, Trichy District.

+1cc to Mr.S.Muthumalai Raja Advocate in SR. No.60741

jikr

js/SKN/RSK/SAR.2/27.06.2017/2P-4C

Order made in
Crl.O.P. (MD)No.7325 of 2017
16.06.2017