



WEB COPY

BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

DATED: 20.07.2017

CORAM:

THE HONOURABLE MR.JUSTICE S.S.SUNDAR

CRL.O.P.(MD)No.9326 of 2017

and

CRL.M.P.(MD)Nos.6327 & 6328 of 2017

Justin

...Petitioner/ Petitioner/Accused No.1

-Vs-

The Inspector of Police,
Eraniel Police Station,
Eraniel, Kanyakumari District.
(Crime No.741 of 2004)

...Respondent/Respondent /complainant

PRAYER: Criminal Original petition is filed under Section 482 of the Criminal Procedure Code, to call for records, dated 08.05.2017, in Cr.M.P.No.4068 of 2017 in C.C.No.50 of 2006 on the file of the learned Judicial Magistrate, Eraniel and set aside the same.

For Petitioner
For Respondent

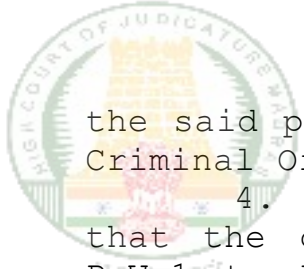
: Mr.P.Banuprasath
: Mr.K.Anbarasan,
Government Advocate(Crl.Side).

O R D E R

This Criminal Original petition is filed for quashing the order in Cr.M.P.No.4068 of 2017 in C.C.No.50 of 2006 on the file of the learned Judicial Magistrate, Eraniel.

2. Heard the learned counsel appearing for the petitioner and the learned Government Advocate(Criminal side) appearing for the respondent.

3. It is stated that the petitioner is one of the accused in the criminal case lodged by the one Velammal. The case was registered in Crime No.741 of 2004 for the offence under Sections 341 and 324 of I.P.C., and after filing of the Charge Sheet, it was taken on file in C.C.No.50 of 2006 on the file of the learned Judicial Magistrate, Eraniel. It is further submitted that during the trial, 8 witnesses were examined by the prosecution. However, <https://hdsnews.com/news/special-services> were not cross examined by the petitioner. He filed a petition under Section 311 of Cr.P.C., to recall the witnesses P.W.1 to P.W.8 to cross examine them. The trial Court dismissed



the said petition. As against the order of the trial Court, this Criminal Original petition is filed.

4. From the order passed by the trial Court, it is seen that the case was pending from the year 2006. The witnesses, P.W.1 to P.W.8 were already examined. Though all the witnesses were examined, and the chief examination was prolonged more than eight years, the petitioner has not filed any application earlier. Even in the petition filed by the petitioner, there is no explanation for the delay. The petition for recall cannot be allowed as a matter of course or routine unless the petitioner has come forward with any reasonable cause for the delay.

5. In this case, absolutely there is no explanation for the delay of more than eight years to recall the witnesses. There is no substance in the argument when the petitioner that he did not have relevant materials at the time when witnesses were examined. This Court does not find any reason to interfere with the order of trial Court. Hence, the Criminal Original petition is dismissed.

6. The learned counsel for the petitioner further submitted that the last witness was examined very recently and that therefore, the petition cannot be dismissed on the ground of delay.

7. The petitioner has not stated any specific reason to cross examine the last witness, namely, P.W.8. The petition is not for re-opening and only to cross examine the last witness. Having regard to the present case, the petitioner has not given any reason as to the necessity to recall P.W.8 and he has not filed the petition at the relevant time, to recall the witness. Having regard to the fact that no reason is stated for the long delay, this Court is of the view that reasonable cost can be imposed.

8. In the result, the Criminal Original petition is dismissed with cost of Rs.2,000/- (Rupees Two Thousand only) payable by the petitioner, to the credit of Hon'ble Chief Justice Relief Fund, Madurai Bench of Madras High Court, Madurai. Consequently, connected Miscellaneous petitions are closed.

Sd/-
Assistant Registrar(C.O)

/True Copy/

Sub-Assistant Registrar



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1.The Judicial Magistrate, Eraniel

2.The Inspector of Police,
Eraniel Police Station,
Eraniel, Kanyakumari District.

3.The Additional Public Prosecutor,
Madurai Bench of Madras High Court,
Madurai.

+One cc to M/s.P.Banuprasath, Advocate, SR.No.66730

Copy to:-

The Section Officer,
Accounts Section,
Madurai Bench of Madras High Court,
Madurai

pmu
RL/6C/3P/KP/SAR2/17/8/2017

CRL.O.P.(MD)No.9326 of 2017

20.07.2017