

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 22.06.2018

CORAM

THE HON'BLE MR.JUSTICE P.N.PRAKASH

Crl.O.P. No.16125 of 2018

and

Crl.MP.No.8272 of 2018

Krishnamoorthy

...Petitioner (Single
Accused)

vs.

State represented by
The Inspector of Police
K1 Sembiam Police Station
Chennai.

...Respondent
(Complainant)

Criminal Original Petition filed under Section 482, Cr.P.C. to set aside the order passed by the learned V Metropolitan Magistrate, Egmore, Chennai, in Crl.MP.No.331 of 2018 in C.C.No.1407 of 2010 dated 19.03.2018.

For petitioner : Mr.C.R.Malarvannan
For Respondent : Mr.C.Raghavan
Government Advocate (Crl. Side)

O R D E R

This Criminal Original Petition has been filed to set aside the order dated 19.03.2018 passed by the V Metropolitan Magistrate, Egmore, Chennai, in Crl.MP.No.331 of 2018 in C.C.No.1407 of 2010.

2. The petitioner is facing prosecution in C.C.No.1407 of 2010, before the V Metropolitan Magistrate, Egmore, Chennai. While so, the petitioner filed Crl.MP.No.331 of 2018 in C.C.No.1407 of 2010, to re-call PW1, which has been dismissed by the V Metropolitan Magistrate, Egmore, Chennai on 19.03.2018.

3. Heard the learned counsel for the petitioner and the learned Government Advocate (Crl. Side) for the respondent.

4. The learned counsel for the petitioner submitted that there is no legal evidence as against the petitioner except the chief examination of PW1 and therefore, one more opportunity

should be given to the petitioner to cross examine PW1.

5. On a perusal of the record, it is seen that PW1 was examined in chief on 15.12.2012 and the learned counsel for the accused has reported "no cross". Thereafter, the petitioner/accused filed a petition in Crl.MP.No.866 of 2017 under Section 311 Cr.P.C., to re-call PW1, which has been dismissed on 02.05.2017. That order was not challenged by the accused. Again, the accused filed Crl.MP.No.331 of 2018 under Section 311 Cr.P.C., which has been dismissed by the V Metropolitan Magistrate, Egmore, Chennai on 19.03.2018. The trial Court has rightly relied on the recent judgment of the Supreme Court in Vinod Kumar vs. State of Punjab, [2015 (1) MLJ (Crl.) 288] and in A.G. Vs. Shiv Kumar Yadav and another, [(2015) 9 Scale 649], wherein, the Supreme Court has very clearly laid down the law relating to invocation of Section 311 Cr.P.C., In this case, PW1 was examined in the year 2012 and till 2017, the accused did not choose to file any petition under Section 311 Cr.P.C.,

6. In such view of the matter, this Court does not find any infirmity in the order passed by the trial Court, warranting interference. Hence, this petition is dismissed as being devoid of merits. Consequently, connected miscellaneous petition is closed.

Sd/-
Assistant Registrar(CS IX)

//True Copy//

Sub Assistant Registrar

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To

1. The V Metropolitan Magistrate,
Egmore, Chennai.
2. -Do- Thro' The Chief Metropolitan Magistrate,
Egmore, Chennai-8
3. The Inspector of Police
K1 Sembiam Police Station
Chennai.
4. The Public Prosecutor
High Court, Madras.

Crl.O.P. No.16125 of 2018

SV(Co)
CS/04/07/18