

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED 03.10.2018

CORAM

THE HONOURABLE Mr.JUSTICE P.N.PRAKASH

CRL.O.P.No.22921 of 2018

Richard Salamon

.. Petitioner

Vs

The State Represented by
Inspector of Police,
K-2, Ayanavaram Police Station,
Chennai 600 023.

.. Respondent

Criminal Original Petition filed under Section 482 Cr.P.C., to set aside the order passed in Crl.M.P.No.3407 of 2018 in C.C.No.2556 of 2010 dated 31.07.2018 by the learned V Metropolitan Magistrate, Egmore, Chennai and consequently to recall the witness P.W.1 - P.W.7 in the above case.

For Petitioner : Mr.C.Mohanraj

For Respondent : Ms.M.Prabhavathi,
Additional Public Prosecutor

O R D E R

The petitioner is facing prosecution in C.C.No.2556 of 2010 before the V Metropolitan Magistrate Court under Section 498 I.P.C. Charges were framed and trial began with the examination of P.W.1 on 02.11.2010. After the examination in chief, the counsel reported 'no cross'. Thereafter, the prosecution examined P.Ws.2 and 3 on 27.12.2011; P.W.4 on 03.03.2015; P.W.5 on 13.06.2017; P.W.6 on 08.08.2017 and P.W.7 on 19.09.2017. The counsel on record for the accused recorded 'no cross' of all these witnesses. Thereafter when the matter was posted for arguments, the accused has filed the present petition in Crl.M.P.No.3407 of 2018 in C.C.No.2556 of 2010 under Section 311 Cr.P.C to recall P.Ws.1 to 7 which has been dismissed by the Trial Court vide detailed order, challenging which the accused is before this Court.

2.Heard the learned counsel for the accused and the learned Additional Public Prosecutor for the respondent.

3.The learned counsel for the accused submitted that on account of change of counsel, the accused requires an opportunity to recall the prosecution witnesses for the purpose of cross-examination. He contended that atleast one opportunity may be given to the accused to recall the prosecution witnesses.

4.Per contra, the learned Additional Public Prosecutor [CrI. Side] refuted the contentions.

5.This Court considered the anxious and rival submissions. It is seen that P.W.1 was examined on 02.11.2010 and during the course of trial, the accused absconded and Non-Bailable Warrant was issued against him. On account of his abscondance, the Trial Court was not able to proceed further with the trial. After a long period of abscondance, the accused surrendered before the Trial Court and Non-Bailable Warrant was recalled. Thus, from 2010 - 2018, the accused has managed to stall the progress of the trial. In such view of the matter, this Court cannot show any indulgence to the accused. In fact, the Trial Court has relied upon the judgments of the Hon'ble Supreme Court in Vinoth Kumar Vs. State of Punjab 2015 (1) MLJ (CrI) 288 and A.G Vs. Shiv Kumar Yadav and another 2015 9 Scale 649 and after discussing the entire facts and circumstances of the case, has dismissed the petition under Section 311 Cr.P.C. This Court does not find any infirmity in the order passed by the Trial Court warranting interference.

6.In the result, this petition stands dismissed.

Sd/-

Assistant Registrar(CS II)

//True Copy//

Sub Assistant Registrar

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To

1. The Inspector of Police,
State of Tamil Nadu,
K-2, Ayanavaram Police Station,
Chennai 600 023.

2. The V Metropolitan Magistrate,
Egmore, Chennai.

3. The Public Prosecutor,
High Court, Madras.

CRL.O.P.No.22921 of 2018

RK (CO)
CSL/25.10.2018



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