



BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

DATED : 06.08.2018

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THE HONOURABLE MR.JUSTICE N.ANAND VENKATESH

Crl.O.P.(MD)No.13836 of 2018

and

Crl.M.P(MD) No. 6222 of 2018

Ramachandran

... Petitioner/Petitioner

Vs.

State through

The Inspector of Police

Devarkulam Police Station

Tirunelveli District

...Respondent/Respondent

Prayer: This Criminal Original Petition filed under Section 482 Cr.P.C. to set aside the judgment passed by the learned Judicial Magistrate No.III, Tirunelveli in Cr.M.P.No.1820 of 2018 in STC No.242 of 2014 dated 28.06.2015.

For Petitioner : K.C.Ramalingam

For Respondent : Mrs.S.Bharathi

Government Advocate (Crl. Side)

ORDER

This petition has been filed challenging the order of the learned Judicial Magistrate No.III, Tirunelveli dismissing the petition filed under section 311 Cr.P.C to recall PWs1,2,3,4,5,6,8,9,10,12,16 and 17.

2. The petitioner is facing trial for offences under sections 279,337 and 338 IPC.

3. From the records it is seen that PW1 was examined in the year 2015 and other witnesses were examined between 2016 and 2018. The petitioner did not choose to cross examine any of these witnesses. When the trial was over and the case is posted for judgment, the petitioner chose to file the present petition for recalling witnesses.

4. While dealing with Section 311 Cr.P.C. the Honourable Supreme Court has issued direction in *Vinod Kumar vs. State of Punjab* [2015(1) MLJ (crl) 288] to cross examine witnesses on the day of cross examination in chief.

<https://hccs.judges.gov.in/reserve>

5. On the reading of the petition filed by the petitioner to



recall the witnesses, it is seen that he has not given any satisfactory reasons as to why the witnesses were not cross examined. The petitioner has remained silent right through and has chosen to file the petition to recall the witnesses at the fag end of the trial, more particularly in a case which is pending from the year 2014. Such an attitude of the petitioner cannot be countenanced and the court below has rightly dismissed the petition filed for recall of the witnesses.

6. This Court does not find any illegality or infirmity in the order passed by the court below. Accordingly the Criminal Original Petition stands dismissed. Consequently connected miscellaneous petition is closed.

Sd
ASSISTANT REGISTRAR (AS)

/TRUE COPY/

SUB ASSISTANT REGISTRAR (CS III)

To

1. The Judicial Magistrate No.III
Tirunelveli
2. The Inspector of Police
Devarkulam Police Station
Tirunelveli District
- 3.The Additional Public Prosecutor,
Madurai Bench of Madras High Court,
Madurai.

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