

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 22.01.2019

CORAM

THE HONOURABLE MR.JUSTICE N. ANAND VENKATESH

Crl.O.P.No.1357 of 2019

Rajendran

... Petitioner

Vs.

State represented by
The Inspector of Police
CCIW CID Erode Unit,
Erode District.
(Crime No.9 of 1997)

... Respondent

PRAYER: Criminal Original Petition is filed under Section 482 of the Code of Criminal Procedure, to call for the records and to set aside the order dated 04.10.2018 made in Crl.M.P.No.2172 of 2018 in C.C.No.141 of 2000 on the file of the Court of the Judicial Magistrate No.IV, Coimbatore.

For Petitioner : Mr.C.E.Pratap

For Respondent : Mr.M.Mohamed Riyaz,
Additional Public Prosecutor.

O R D E R

This Criminal Original Petition has been filed by the petitioner challenging the order passed by the Court below dismissing the petition filed by the petitioner under Section 311 of Cr.P.C to recall PW.9 for cross examination.

2. The petitioner has been arrayed as A2 and he is facing trial before the Court below for the offences under Section 408, 477- A IPC. The final report was taken on file in the year 2000 and the case has been pending for the last 18 years. Earlier the petition was filed in the year 2012 in the Crl.MP.No. 1546 of 2012 to recall Pw9 and the same was allowed by an order dated 03.05.2012. The Court below inspiteof giving sufficient opportunity to the petitioner, the said witness was not cross examined. When the matter came up on 30.08.2018 finally, A1 cross examined PW9 and even on that day this petitioner did not cross examine PW9. Therefore, the Court below left with no

other option closed the evidence. Subsequently, the petition filed by the petitioner to recall PW9 was also dismissed.

3.This Court does not find any illegality or infirmity in the order passed by the Court below and the Court below has given sufficient reasons for dismissing the petition filed by the petitioner. The Court below was right in observing that the case has been kept pending for a very long time and it is being dragged by accused persons.

4. The learned counsel for the petitioner submitted that one last opportunity may be given to the petitioner to recall and cross examine Pw9, since the petitioner is facing serious charges before the Court below. The learned Counsel also submitted that this Court can impose any condition and also fix a time limit for the completion of the proceedings.

5. This Court is of the considered view that one last opportunity can be given to the petitioner to recall and cross examine PW9. The order passed by the Court below in CrI.Mp.No.4017 of 2018 dated 04.10.2018 is hereby set aside. The Court below is directed to issue summons to PW9 and fix a date for cross examination. On the day, when PW9 appears before the Court, the petitioner has to cross examine on the very same day and complete the cross examination. If for any reason, the petitioner fails to cross examine PW9 on the date of appearance, the petitioner shall forfeit his right to recall PW9 at any future date. The petitioner shall pay a sum of Rs.7,500/- to PW9 on the date of his appearance.

6. This Criminal Original petition is allowed and the Court below is directed to complete the proceedings within a period of three months from the date of receipt of copy of this order.

Sd/-

Assistant Registrar

//True Copy//

Sub Assistant Registrar

rpl/mpa
To

1.The Judicial Magistrate No.IV,
Coimbatore

2.Do through The Chief Judicial Magistrate,
Coimbatore.

3.The Inspector of Police
CCIW CID Erode Unit,
Erode District.

4.The Public Prosecutor
High Court of Madras.

+1 cc to M/s.C.E.Pratap, Advocate Sr.No.4829

CrI.O.P.No.1357 of 2019

NRI (CO)
CSL/18.02.2019



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