

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 05.02.2019

CORAM:

THE HON'BLE MR.JUSTICE A.D.JAGADISH CHANDIRA

Crl.O.P.No.3019 of 2019
and Crl.M.P.No.1992 of 2019

V.J.Annadurai

... Petitioner /
3rd accused

/Vs/

State Rep.by
The Inspector of Police,
Vigilance and Anti-Corruption,
Villupuram District (Cr.No.5 of 2004). ... Respondent

PRAYER: Criminal Original Petition filed under section 482 of Cr.P.C., to set aside the order dated 29.01.2019 in C.M.P.No.41 of 2019 in Special Case No.2 of 2013 on the file of the Special Court for Prevention of Corruption Act Cases, Villupuram.

For Petitioner : Mr.V.Arunagiri

For Respondent : Mr.K.Prabhakar
Additional Public Prosecutor

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O R D E R

This petition has been filed by the petitioner to set aside the order dated 29.01.2019 in C.M.P.No.41 of 2019 in Special Case.No.2 of 2013 on the file of the learned Special Judge for Prevention of Corruption Act Cases, Villupuram dismissing the petition filed by the petitioner to recall the witness PW.7 for further cross examination.

2. The learned counsel for the petitioner would submit that the petitioner is arrayed as A-3 in this case and the order passed by the learned trial Judge is contrary to law, weight of the evidence and the facts of the case. He would further submit that the de-facto complainant is Government employee, she had presented some bills of her department and for passing that

bills, she had claimed that she had paid bribe to the accused. He would further submit that there is no evidence against the petitioner/A-3 that he received bribe and that the de-facto complainant herself had stated that she had handed over the bribe to a third party and that she did so, under the instruction of the 1st accused. He would also submit that though the prosecution side evidence was closed on 17.07.2017, the defence witness was examined on behalf of the 1st accused/Dhayalan who was stated to have been presented at the time of trap and that he had given evidence regarding the incident at the time of trap. He would further submit that since the defence witness has been examined very recently, the petitioner had filed the petition to recall PW7.

3. The learned Additional Public Prosecutor would submit that the evidence on the side of the prosecution was closed as early as on 17.07.2017. He would further submit that the chief examination of P.W.7 was done on 21.10.2011 and on that date the counsel for the petitioner/A-3 represented that he has no cross examination. Thereafter, P.W.7 was cross examined by A-2 on 25.03.2013. Even on that date this petitioner did not take any steps to cross examine P.W.7. Thereafter, the case after closure of evidence on the side of the prosecution was posted for questioning under Section 313 Cr.P.C and after questioning was over, the case was posed for arguments on 09.01.2019, 22.01.2019 and 23.01.2019. Only on 29.01.2019 the petitioner has come forward with this petition. He would further submit that the need to further cross examination of PW7 has no relevance with regard to the evidence let in by way of defence and that the learned trial judge finding that the petitioner has been only filed with the motive of protracting the trial had rightly dismissed the petition.

4. I have gone through the order passed by the learned trial Judge. The learned trial Judge had stated that though PW7 had been examined in chief on 21.10.2011 and though the evidence on the side of the prosecution was closed on 17.07.2017. The petitioner had not taken any steps to recall PW7. The learned trial Judge had following the mandate of the decision of the Hon'ble Apex Court in Vinodkumar Vs.State of Punjab has rightly dismissed the petition.

5. I find no infirmity in the order passed by the Trial Judge.

6. Moreover, the case is posted at the stage of arguments and this Court is of the opinion that this petition has been filed only with a view to protract the proceedings.

7. In view of the above, the Criminal Original Petition stands dismissed. Consequently, connected Miscellaneous petition is closed.

Sd/-
Assistant Registrar

//True Copy//

Sub Assistant Registrar

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To

1. The Special Judge for Prevention of Corruption Act Cases, Villupuram.
2. The Inspector of Police, Vigilance and Anti-Corruption, Villupuram District.
3. The Public Prosecutor, High Court, Madras.

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and Crl.M.P.No.1992 of 2019

GJ(CO)
SSM(05/03/2019).



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