

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 14.02.2019

CORAM:

THE HONOURABLE MR. JUSTICE A.D.JAGADISH CHANDIRA

Crl.O.P.No.3757 of 2019 &
Crl.M.P.No.2349 of 2019

Neelaganda Subramani

.. Petitioner

Vs.

State Represented by
The Inspector of Police
Vigilance & Anticorruption Wing
Erode Detachment.
(Crime No.17/AC/2003/ER)

.. Respondent

PRAYER: Criminal Original Petition filed under Section 482 Cr.P.C. to set aside the Docket order passed in Special Crl.M.P.No.1051 of 2019 in Special C.C.No.7 of 2015 on the file of Chief Judicial Magistrate, Erode dated 05.02.2019.

For Petitioner : Mr.V.Regunathan

For Respondent : Mr.K.Prabakar
Additional Public Prosecutor

ORDER

The Criminal Original Petition has been filed to set aside the Docket order passed in Special Crl.M.P.No.1051 of 2019 in Special C.C.No.7 of 2015 on the file of Chief Judicial Magistrate, Erode dated 05.02.2019, dismissing the petition filed under Section 311 Cr.P.C., to examine the Inspector of Police, who was on duty, on 28.04.2017, to prove the tampering of defence witness.

2.The learned counsel for the petitioner would submit that the petitioner is an accused in C.C.No.7 of 2015, pending on the file of the learned Chief Judicial Magistrate, Erode, for the offences under Sections 7, 13(2) IPC r/w 13(1)(d) of the Prevention of Corruption Act, 1988, in Crime No.17/AC/2003/ER, registered by the respondent police. He would submit that the

prosecution had already examined P.W's.1 to 12 and they were cross examined by the petitioner's previous counsel. He would further submit that the petitioner had filed a petition to examine three persons viz., Velusamy (D.W.1), Kandasamy(D.W.2) and one Deputy Tahsildar as the defence witness and the Deputy Tahsildar refused to come to the Court to give his evidence. He would submit that on 28.04.2017, when D.W.2 was examined, the police officials had taken him to tamper the witness and that the same was also admitted by the witness during the examination. Therefore, the petitioner had filed a Crl.M.P.No.1051 of 2019, under Section 311 Cr.P.C., to examine the police officials, to question with regard to the reason why the witness was taken by them and why they threatened him. He would also submit that the learned Chief Judicial Magistrate, Erode, without taking into consideration, the serious averments and the need to examine the witness, dismissed the petition. He would further submit that the examination of concerned Inspector of Police is essential for arriving at a just decision in the case and that is the reason, the petition in Crl.M.P.No.1051 of 2019 has been filed.

3.Per contra, the learned Additional Public Prosecutor would submit that D.W.2 was examined in chief on 28.04.2017 in part and no steps were taken by the petitioner to summon the Inspector of Police, thereafter, D.W.2 was further examined in chief on 19.09.2017. Further, on the same day i.e., on 19.09.2017, during the cross examination by the respondent police, it has been admitted by the defence witness that he has not made any complaint about the threat wielded to him by the local police personnel and he would submit that the witness also has not stated or revealed about the identity of the police person who has threatened him and only at this stage, after evidence on the defence was closed, questioning under Section 313 Cr.P.C., was also over, when the case was posted for arguments, the learned counsel for the petitioner having taken several adjournments for advancing arguments only as an afterthought much belatedly to delay the proceedings, has filed the petition in Crl.M.P.No.1051 of 2019 to recall. He would submit that taking into consideration, the circumstances under which the petition has been filed, the learned Chief Judicial Magistrate, Erode, has rightly dismissed the application, holding that the petition is nothing but an abuse of process of law. He would further submit that the prosecution has filed written arguments as early as on 14.08.2018 and only in order to delay advancing arguments, the present petition to examine a witness has been filed much belatedly on 05.02.2019 and that no valid reason has been stated by the petitioner.

4.I have gone through the order passed by the learned Chief Judicial Magistrate, Erode, in Crl.M.P.No.1051 of 2019 dated

05.02.2019. It is seen from the records that the application has been filed without mentioning the name of the Inspector of Police, who is alleged to have committed the tampering of defence witnesses. The case is being repeatedly adjourned for advancing arguments on the side of the petitioner and that it is only to delay the proceedings, the petition has been filed. I find no infirmity in the order passed by the learned Chief Judicial Magistrate, Erode, in CrI.M.P.No.1051 of 2019 dated 05.02.2019.

5. Accordingly, the Criminal Original Petition stands dismissed. Consequently connected miscellaneous petition is closed.

Sd/-
Assistant Registrar(CS IV)

//True Copy//

Sub Assistant Registrar

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To

1. The Chief Judicial Magistrate, Erode.
2. The Public Prosecutor
High Court of Madras.
3. The Inspector of Police
Vigilance & Anticorruption Wing
Erode Detachment.

+1 cc to Mr.V.Regunathan, Advocate Sr.No.13236

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PA(CO)
CSL/08.03.2019

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