



BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

DATED: 05.03.2019

CORAM:

THE HONOURABLE MR. JUSTICE N. SESHASAYEE

CRL.O.P. [MD].No.2730 of 2019

Vibin Issac Mathew

... Petitioner

Vs.

The State Represented by
The Sub Inspector of Police,
Marthandam Police Station,
Kanyakumari District.

(Crime No.569 of 2008)

... Respondent

PRAYER : Criminal Original Petition filed under Section 482 of Cr.P.C. to call for the records relating to the impugned order dated 10.01.2019 in C.M.P.No.313 of 2019 in S.T.C.No.25 of 2009, passed by the learned Judicial Magistrate No.I, Kuzhithurai, Kanyakumari District and set aside the same and consequently, allow the application filed by the petitioner herein in C.M.P.No.313 of 2019 in S.T.C.No.25 of 2009 on the file of the learned Judicial Magistrate No.I, Kuzhithurai, Kanyakumari District under Section 311 Cr.P.C., for seeking permission to recall P.W.1, P.W.4, P.W.5 and P.W.7 for cross-examination.

For Petitioner	: No Appearance
For Respondent	: Mr.A.P.G.Ohm Chairma Prabhu, Government Advocate (Crl.Side).

ORDER

The present petition has been filed challenging the order rejecting the petitioner's prayer under Section 311 Cr.P.C., to recall P.Ws.1, 4, 5 and 7.

2. The learned Government Advocate (Crl.Side) submitted that the petitioner is the sole accused in S.T.C.No.25 of 2009 pending before the Judicial Magistrate I, Kuzhithurai and facing trial for the offences under Section 4(1) J of the Tamil Nadu Prohibition Act and 294 (b) & 353 IPC.

3. Heard the learned counsel for the petitioner and the learned Government Advocate (Crl.Side) appearing for the respondent police and perused the order impugned in this petition.

4. The learned Magistrate has stated in his order that the case itself is pending before him for ten years and P.W.1 was examined in chief some nine years back, P.W.4 was examined some six years and seven months back and P.W.7, was examined some one month back.



5. This Court finds that the Magistrate has justly dismissed the petitioner's prayer as the petitioner's conduct demonstrates his intention to subvert the conduct of the trial.

6. In the result, this criminal original petition is dismissed and the order passed by the learned Magistrate is confirmed.

Sd/-

Assistant Registrar (AD-I)

/True Copy/

Sub Assistant Registrar (CS-)

To

1. The Judicial Magistrate No. I,
Kuzhithurai, Kanyakumari District.
2. The Sub Inspector of Police,
Marthandam Police Station,
Kanyakumari District.
3. The Additional Public Prosecutor,
Madurai Bench of Madras High Court,
Madurai.

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SP/08.04.2019/ 2P/4C