



BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

DATED: **21.03.2019**

CORAM

THE HONOURABLE MR. JUSTICE **N.SESHASAYEE**

Crl.O.P.(MD)No.4261 of 2019

and Crl.M.P(MD)No.2586 of 2019

K.Ravichandran

... Petitioner/Accused
No.4/Accused No.4

Vs.

State rep. By its
The Inspector of Police,
Thanjavur Medical College Hospital Police Station,
Thanjavur District. ...
Respondent/Petitioner/Complainant

PRAYER: Criminal Original Petition is filed under Section 482 of the Code of Criminal Procedure, to set aside the order dated 12.03.2019 passed in Crl.M.P.No.689 of 2010 in C.C.No.87 of 2013 on the file of the Judicial Magistrate No.II Thanjavur.

For Petitioner : Mr.G.Karnan

For Respondent : Mr.V.Neelakandan
Additional Public Prosecutor

O R D E R

The present petition is filed to set aside the order dated 12.03.2019 passed in Crl.M.P.No.689 of 2010 in C.C.No.87 of 2013 on the file of the Judicial Magistrate No.II, Thanjavur.

2. Heard the learned counsel for the petitioner and the learned Additional Public Prosecutor appearing for the respondent.

3. In this case, the petitioner along with other accused face trial for the charges under Sections 120(b), 467, 468, 471, 420 and 506(ii) IPC. The essence of the accusation of the prosecution is that the accused persons have fabricated certain sale agreement registered with Vallam Sub Registry.

<https://hcservices.ecourts.gov.in/hcservices/>

4.The learned counsel for the petitioner submitted that the prosecution is trying to re-open the case in which argument was



over some time in 2015 on a mode by filing a petition under Section 311 Cr.P.C and then a petition under Section 91 Cr.P.C.

5. Elaborating his argument, the learned counsel would say that the case was originally posted for argument on 08.04.2015, and on that day, the defence have concluded its argument and to fill up the lacuna the prosecution had came forward with an application under Section 311 Cr.P.C to recall P.W.2 over eliciting some facts to silence the line of defence.

6. This order was unsuccessfully challenged by the accused No.4. Accordingly P.W.2 was recalled and examined and the facts elicited by P.W.2 were not earlier spoken to by him during investigation. Subsequently, the prosecution has filed a petition in CrI.M.P.No.689 of 2010 under Section 91 Cr.P.C for production of certain chitta book, which originally belong to the Office of the District Registry, Thanjavur. The said petition has been allowed and the same is under challenge.

7. The learned counsel for the petitioner submits that the constant attempt by the prosecution to improve its own case on a fact already disclosed by the defence during trial would cause prejudice to the accused. He also argued that earlier the prosecution contended that the document is registered in Vallam Sub Registry now it wants the very same document from the District Registrar Office at Thanjavur.

8. After hearing rival submissions, this Court is not impressed by the arguments made by the learned counsel appearing for the petitioner.

9. It is seen that the prosecution merely wanted to bring certain chitta book from the District Registrar Officer, at Thanjavur which was originally believed to be with the Sub Registry Vallam. Record continues to be the same, but, the Office from which it has to be brought alone is different. This cannot said to be the changing course of the entire trial.

10. Having stated that, it is for the learned Magistrate to consider all aspects of the prosecution case and the defence, while he proceeds to appreciate the evidence and arrives a conclusion. For the present, this Court does not find merit in this petition. However, this Court finds merit in the anguish expressed by the learned counsel for the petitioner about the action of the court in entertaining the petitions to recall witnesses after the conclusion of the argument some time in August 2015. The prosecution is instructed to curtail its temptations and tendencies to keep bringing new evidences to silence the defence.

11. In the result, this Criminal Original petition is



dismissed. Consequently, connected Crl.M.P.(MD)No.2586 of 2019 is also dismissed.

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Sd/-

Assistant Registrar (CO)

// True Copy //

Sub Assistant Registrar(CS)

To

1.The Judicial Magistrate No.II,
Thanjavur.

2. The Inspector of Police,
Thanjavur Medical College Hospital Police Station,
Thanjavur District.

3.The Additional Public Prosecutor,
Madurai Bench of Madras High Court,
Madurai.

+1 CC to M/s.G.KARNAN, Advocate (SR-55854[F] dated 22/03/2019)

CM

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