



WEB COPY

1 CRL.O.P.(MD).No.10178 of 2019

BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

DATED : 19.07.2019

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THE HONOURABLE MR.JUSTICE V.BHARATHIDASAN

CRL.O.P. (MD) .No.10178 of 2019

and

CrI.M.P. (MD) .No.6414 of 2019

Mr.Sebasthian : Petitioner
Vs.

The State represented by
The Inspector of Police,
West Police Station,
Dindigul, (Crime No.213 of 2014),
Dindigul District. : Respondent

PRAYER: Petition is filed under Section 482 of Criminal Procedure Code to call for the records pertaining to the order passed in Cr.M.P.No.7614 of 2018 in C.C.No.209 of 2014, dated 05.01.2019 by the learned Judicial Magistrate No.I, Dindigul and set aside the same by allowing this Criminal Original Petition.

For Petitioner : Mr.B.Rajesh Saravanan
For Respondent : Mr.K.Suyambulinga Bharathi
Government Advocate (Crl. side)

ORDER

This Criminal Original Petition challenging the dismissal application filed under Section 311 of the Code of Criminal Procedure.

2.The petitioner is the sole accused in C.C.No.209 of 2014, on the file of the learned Judicial Magistrate, No.I, Dindigul. He has been charged with for the offences under Sections 294 (b), 324 and 506 (ii) of the Indian Penal Code. The trial has commenced in this case on July 2016 and P.W.1 to P.W.3 were examined on 20.07.2016 and 10.08.2016. But the petitioner did not cross-examine the above said witnesses. Now after three years, the present petition has been filed seeking to recall those witnesses for cross-examination. The learned Judicial Magistrate after considering all these materials dismissed the application filed by the petitioner. Now challenging the same, the present petition has been filed.



3.The learned counsel appearing for the petitioner would contend that P.Ws.1 to 3 were examined on 20.07.2016 and 10.08.2016 and on those days, the learned counsel appearing for the petitioner failed to cross-examine the witnesses. The above said fact was not known to the petitioner. Thereafter, now only he came to know about the same and he filed a petition and there is no mala fide intention on his part to delay the trial.

4.On perusal of the records, it is seen that the prosecution witnesses were examined in the month of August 2016. But the petitioner did not come forward to cross-examine those witnesses. After delay of more than two years, the petition has been filed to cross-examine the witnesses, without assigning any valid reason. The learned Judicial Magistrate considered the entire material available on record and rightly dismissed the application following the dictum laid down by the Supreme Court in the case of **Vinoth Kumar Vs. State of Pnnjab**. I find no illegality or irregularity in the order passed by the learned Judicial Magistrate. The Criminal Original Petition stands dismissed accordingly. Consequently, the connected miscellaneous petition is closed.

Sd/-

Assistant Registrar(CS-III)

/TRUE COPY/

Sub Assistant Registrar

To

1.The Judicial Magistrate No.I, Dindigul

2.The Inspector of Police,
West Police Station,
Dindigul,
Dindigul District.

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

+1. C.C. to M/S.B.Rajesh Saravanan, Advocate SR.No. 76535

Order made in

CRL.O.P. (MD) .No.10178 of 2019

Dated:

19.07.2019

tsg

JM/19.09.2019/2P/5C

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