



BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

DATED: 24.09.2019

CORAM:

THE HONOURABLE MR.JUSTICE G.K.ILANTHIRAIYAN

Cr1.O.P. (MD) .No.12143 of 2019

Kannan

... Petitioner

- Vs. -

State rep. by
The Sub-Inspector of Police,
C.S.C.I.D., Madurai.

... Respondent

PRAYER : Criminal Original Petition is filed under Section 482 of Cr.P.C. to set aside the order dated 06.08.2019 passed by the Judicial Magistrate No.III (CCIW), Madurai in Cr.M.P.No.1928 of 2019 in C.C.No.44 of 2014.

For Petitioners	: Mr.T.Lenin Kumar
For R-1	: Mr.K.Suyambulinga Bharathi
	Government Advocate (Crl. Side)

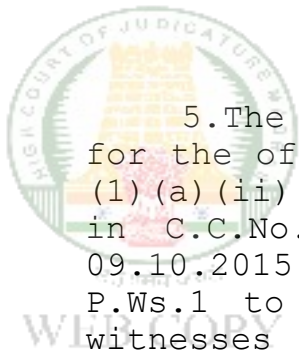
ORDER

The Criminal Original Petition has been filed challenging the order dated 06.08.2019 passed by the Judicial Magistrate No.III (CCIW), Madurai in Cr.M.P.No.1928 of 2019 in C.C.No.44 of 2014, thereby dismissing the application filed by the petitioner under Section 311 of Cr.P.C., to cross examine P.Ws.1 to 3.

2.The learned counsel appearing for the petitioner would submit that the petitioner is an accused and in this case, P.Ws.1 to 3 were examined in chief on 09.10.2015 and due to advocates' boycott, he could not cross examine the said witnesses on the date of chief examination. Therefore, it is just and necessary to cross examine P.Ws.1 to 3 to put forth their case before the trial Court. However, the trial Court without consider the same, dismissed the request of the petitioner. Therefore, he has approached this Court.

3.The learned Government Advocate (criminal side) would submit that the case has been taken cognizance in the year 2011 for the offence under Clause 6(4) of TNSC (RDCS) Order, 1982 r/w 7(1)(a)(ii) of E.C.Act, 1955 and in this case, the prosecution witnesses viz., P.Ws.1 to 3 were examined on 09.10.2015 itself. Thereafter, after completing the trial, the accused was also questioned under Section 313 of Cr.P.C. and now, the case has been posted for argument. At this stage, that too, after a period of 4 years, the petitioner wanted to cross examine P.Ws.1 to 3 without citing any reason and hence, the trial Court rightly dismissed the same and hence, he prays for dismissal of this petition.

4.Heard the learned counsel appearing for the petitioner as well as the learned Government Advocate (criminal side) appearing for the State and perused the materials available on records.



5.The petitioner is the sole accused and he has been charged for the offence under Clause 6(4) of TNSC (RDCS) Order, 1982 r/w 7 (1)(a)(ii) of E.C.Act, 1955. The trial Court has taken cognizance in C.C.No.44 of 2014 and prosecution examined P.Ws.1 to 3 on 09.10.2015 itself. However, on the date of chief examination of P.Ws.1 to 3, the petitioner/accused failed to cross examine the witnesses for the reason that on that day, there was advocate's boycott. Even then, the petitioner did not choose to file any application to recall the witnesses examined by the prosecution. But, now, that too, after a period of 4 years, the petitioner filed application to cross examine the prosecution witnesses.

6.No doubt, the trial proceedings are over and the matter is also posted for arguments. Therefore, at this stage, the application under Section 311 of Cr.P.C. cannot be considered and the learned trial Judge has rightly dismissed the said application and this Court finds no infirmity or irregularity in the order passed by the trial Court and this petition is liable to be dismissed.

7.Accordingly, this criminal original petition is dismissed. Consequently, connected miscellaneous petition is also dismissed.

Sd/-

Assistant Registrar

// True Copy //

Sub Assistant Registrar(CS)

To

1. The Sub-Inspector of Police,
C.S.C.I.D., Madurai.
2. The Judicial Magistrate No.III (CCIW),
Madurai.
3. The Additional Public Prosecutor,
Madurai Bench of Madras High Court,
Madurai.

+1 CC to Mr.T.LENIN KUMAR, Advocate (SR-89128[F] dated 25/09/2019)

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24.09.2019

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