

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 30.11.2020

CORAM

THE HONOURABLE MR. JUSTICE T. RAVINDRAN

Crl.O.P.No.18726 of 2020

A.Muthukumaran,
S/o. Late Arumugam.

... Petitioner

Vs.

1.Yuvarani,
W/o. Muthukumaran.

2.Minor. M.Harshitha,
D/o. Muthukumaran.

3.Minor. Hasvanth,
S/o. Muthukumaran.

... Respondents

Prayer: Criminal Original Petition filed under Section 482 Cr.P.C.,
praying to set aside the order passed in Crl.M.P.No.3176 of 2020 in
M.C.No.2 of 2017 dated 12.10.2020 on the file of the Judicial Magistrate
No.V at Vellore and recall the PW1 for further cross examination.

For Petitioner : Mr.G.Nirmal Krishnan

ORDER

Assailing the order dated 12.10.2020 in Crl.M.P.No.3176 of 2020 in M.C.No.2 of 2017 on the file of the Judicial Magistrate Court No.V, Vellore, the present Criminal Original Petition has been laid by the petitioner.

2.The petitioner has laid the Crl.M.P.No.3176 of 2020 seeking to recall P.W.1 on the footing that he was unable to give instructions to his counsel and also to produce the necessary documents during the cross examination of P.W.1 and hence, according to him, P.W.1 should be recalled for further cross examination.

3.The abovesaid petition laid by the petitioner has been vehemently resisted by the respondents contending that P.W.1 had been already cross examined in extenso by the petitioner and thereafter, other witnesses had been examined and after the closure of the respondents' evidence and inasmuch as the petitioner had not adduced any evidence,

the matter had been adjourned for arguments and also posted for judgment and at that stage, the present petition has been preferred by the petitioner and hence, according to the respondents, only with a view to delay the proceedings endlessly and cause loss and hardship to the respondents, the present Criminal Original Petition has been laid by the petitioner and therefore, sought for dismissal of the same.

4. On an appreciation of the rival contentions put forth by the respective parties, the Court below was pleased to dismiss the petition preferred by the petitioner. Impugning the same, the criminal original petition has been laid.

5. As rightly determined by the Court below, it is found that P.W.1 had already been cross examined by the petitioner in extenso by taking adequate adjournments. In such view of the matter, the case of the petitioner that he was unable to cross examine P.W.1 in full on the footing that his counsel had not been properly instructed and also, due to non furnishing of certain documents, as such, cannot be readily

countenanced. As rightly determined by the Court below, no valid reason has been given by the petitioner for recalling the P.W.1 and the petitioner cannot take his own time in cross examining P.Ws at his whims and fancies. The petitioner should endeavor to cross examine the P.Ws on the date of chief examination itself and without sufficient cause, the petitioner cannot be allowed to recall the witnesses as he chooses without any basis. In such view of the matter, the determination of the Court below that the reasons given by the petitioner for recalling of P.W.1 are totally untenable and accordingly, the impugned order passed by the Court below in dismissing the petition filed by the petitioner for recalling the P.W.1 do not warrant any interference.

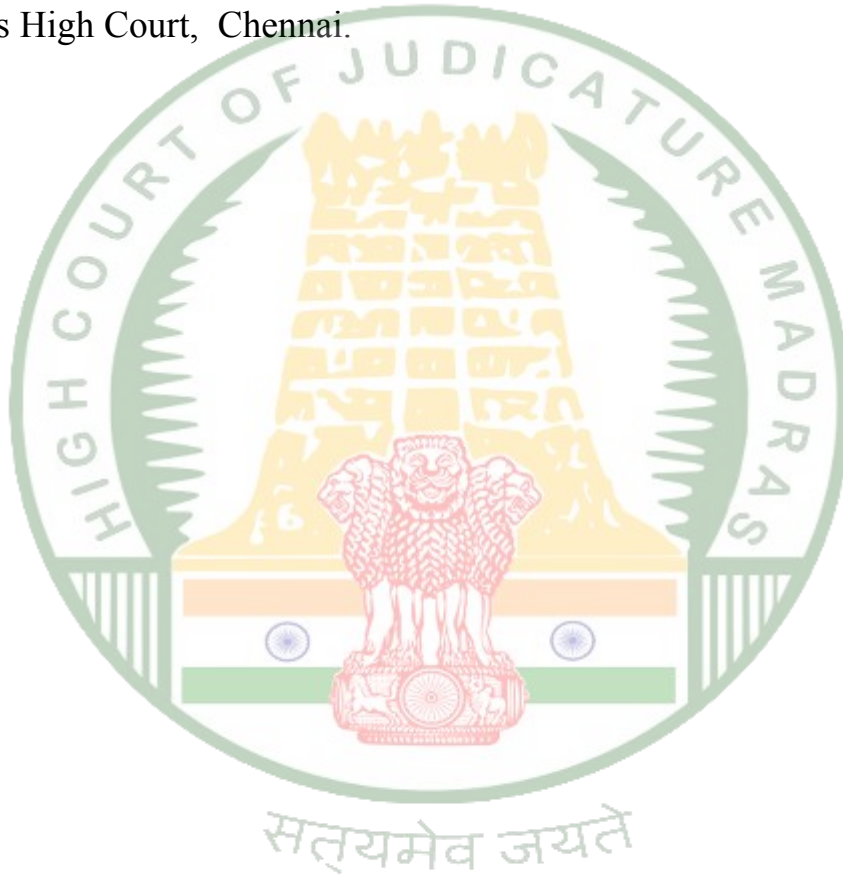
6.In the light of the abovesaid discussions, I do not find any error or infirmity in the impugned order of the Court below. Resultantly, the criminal original petition is dismissed.

30.11.2020

Index: Yes/No
Internet: Yes/No
Speaking/Non-Speaking order
vsn

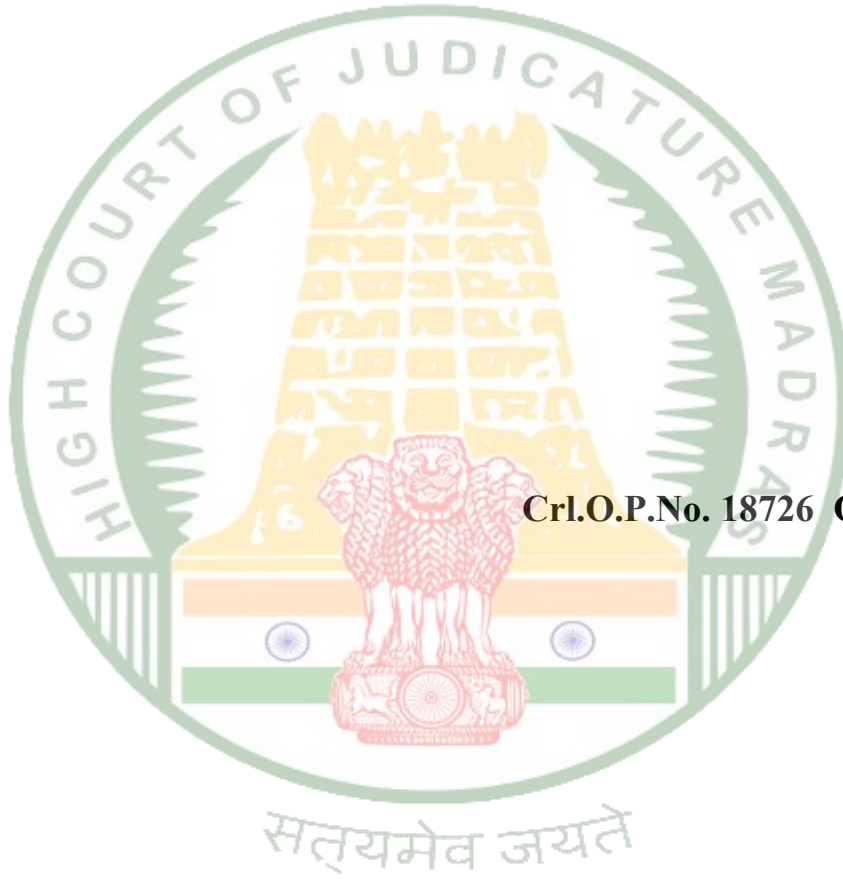
To

1. The Judicial Magistrate No.V, Vellore
2. The Public Prosecutor,
Madras High Court, Chennai.



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T. RAVINDRAN, J.
vsn



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