

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 10.12.2020

CORAM:

THE HON'BLE MR.JUSTICE R.PONGIAPPAN

CRL.O.P.NO.19552 OF 2020

K.Arumugam

...Petitioner

-Vs-

State rep by
The Inspector of Police,
Anaimalai Police Station,
Pollachi, Coimbatore District.
(Crime No.225/16)

.... Respondent

Prayer:

Criminal Original Petition filed under section 482 of Criminal Procedure Code, to set aside the order made in C.M.P.No.2924 of 2019 dated 14-10-2020 on the file of the Judicial Magistrate-I, Pollachi.

For Petitioner : Mr.M.N.Balakrishnan

For Respondent : Mrs.M.Prabhavathi
Additional Public Prosecutor

O R D E R

The matter was heard through "Video Conference".

2. This Criminal Original Petition has been filed praying to set aside the order dated 14-10-2020 passed in C.M.P.No.2924 of 2019 in C.C.No.187/2016 on the file of the Judicial Magistrate-I, Pollachi.

3.Heard Mr.M.N.Balakrishnan, learned counsel appearing for the petitioner and Mrs.M.Prabhavathi, learned Additional Public Prosecutor appearing for the respondent.

4. The petitioner is arrayed as A1 in C.C.No.187 of 2016 pending on the file of the Judicial Magistrate No.I, Pollachi

which have been taken on file for the offences under sections 294(b), 323, 354 and 506(i) IPC. After commencement of the trial proceedings, particularly after examining P.Ws.1 to 3, for the reason best known to the petitioner, cross examination of those witnesses have not been completed. In this regard, in the month of May 2019, the petitioner herein filed an application under section 311 Crpc and prayed to recall those witnesses for the purpose of cross examination at his cost. The said application filed by the petitioner was assigned with case number as C.M.P.No.2924 of 2019 and thereafter due to the absence of the petitioner on 14.10.2019, the same has been dismissed for default.

5. Aggrieved over the same, the petitioner is before this Court for the relief stated supra. It is the settled proposition that in every case, the trial has to be finished only after giving sufficient opportunity to the accused for placing his case. But herein, it is case of the petitioner that he is not permitted to cross examine P.Ws.1 to 3, which amounts to the denial of opportunity to the petitioner to cross examine those witnesses.

6. The learned Additional Public Prosecutor fairly conceded that in the petitioner mentioned calender case, so far, the process of examining the prosecution witnesses have not been completed and therefore in view of the said submission, it cannot be considered that the application has been filed without delay. More than that, the impugned order dated 14.10.2019 passed by the Judicial Magistrate No.I, Pollachi is not having any reason .

7. In the light of the abovesaid circumstances, in my considered opinion, for rendering the real justice, it is necessary to set aside the order dated 14.10.2020 passed in C.M.P.No.2924 of 2019 by the Judicial Magistrate, Pollachi and allow the application. However, considering the fact that the petitioner has not completed his cross examination immediately after recording the chief examination, it is appropriate that the petition has to be allowed with costs. Accordingly, the petitioner shall pay a cost of Rs.10,000/- (Rupees Ten Thousand only) to the District Legal Services Authority, Coimbatore, within a period of two weeks from the date of receipt of copy of this order and thereafter the Judicial Magistrate No.I, Pollachi is directed to summon only P.Ws.1 to 3 and provide necessary opportunity to the petitioner to cross examine those witnesses.

8. With the abovesaid directions, the Criminal Original Petition is disposed of.

Sd/-
Assistant Registrar

//True Copy//

Sub Assistant Registrar

mfa

To

1. The Judicial Magistrate, Pollachi
2. Do-Through The Chief Judicial Magistrate, Coimbatore.
3. The Inspector of Police, Anaimalai Police Station, Pollachi, Coimbatore District.
4. The Public Prosecutor, High Court, Madras.

Copy To
The District Legal Services Authority,
Coimbatore.

+1cc to Mr.M.N.Balakrishnan, Advocate, S.R.No.40486

Crl.O.P.No.19552 of 2020

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