

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 08.12.2020

CORAM:

THE HON'BLE MR.JUSTICE T.RAVINDRAN

Crl.O.P.No.19349 of 2020

and

Crl.M.P.Nos.7774 & 7775 of 2020

T.Devi @ Devika,
W/o, S.Thangavel,
Door No.D480, Sampath Nagar,
Housing Unit,
Erode.

...Petitioner

-Vs-

State: Represented by
The Inspector of Police,
Economic Offence Wing-II,
Erode District.
(Crime No. 13/2012)

... Respondent

Prayer:

Criminal Original Petition filed under section 482 of Criminal Procedure Code, to set-aside the order the Special Judge for TNPID cases, Coimbatore dated 01-10-2020 in C.M.P.No.789 of 2020 in C.C.No.15 of 2012 in Crime No.13 of 2012 dismissing the petition filed by the petitioner under section 311 of the Code of Criminal Procedure.

For Petitioner : Mr.R.John Sathyan

For Respondent : Ms.M.Prabhavathi

Additional Public Prosecutor

O R D E R

Assailing the order dated 01.10.2020 passed in C.M.P.Nos.789 and 790 of 2020 in C.C.No.15 of 2012 on the file of the Special Judge, Special Court under TNPID Act, Coimbatore, the petitioner/A5 has come forward with the Criminal Original Petition.

2. The petitioner/A5 has laid the abovesaid petitions under section 311 Crpc, seeking to reopen the case and recall P.W.55 for enabling her to cross examine P.W.55. With reference to the same, according to the petitioner/A5, there is no evidence

showing her involvement in the alleged crime and she has cross examined all the witnesses except P.W.55 and due to her long period of back pain and shortage of IQ power of one of her child, she was unable to attend the court and hence according to her, she has to be provided with an opportunity to recall P.W.55 for cross examination and hence the petition.

3. The respondent resisted the abovesaid petition preferred by the petitioner/A5 contending that the case was taken on file in the year 2012 and A2 to A7 belong to the same family and A3 already filed the similar applications for the cross examination of various witnesses in C.M.P.Nos.57 of 2016, 3019 of 2017, 3605 of 2017 and 2011 of 2019 and cross examined some witnesses and thereafter presented another petition in C.M.P.No.2645 of 2019 which was dismissed and subsequently the petitioner/A5 has come forward with the similar prayer and hence according to the prosecution, only with a view to delay the proceedings endlessly, the present petition has been laid and the petition is liable to be dismissed.

4. On an appreciation of the rival contentions putforth by the respective parties, the court below was pleased to dismiss the petitions preferred by the petitioner/A5. Impugning the same, the present Criminal Original Petition has been laid.

5. As rightly held by the Court below, the prosecution evidence in C.C.No.15 of 2012 has been closed on 22.12.2015 with P.W.55 and thereafter questioning under section 313(1)(b) Crpc was conducted on 30.12.2015 and the matter stood adjourned for defence witnesses from 07.01.2016 to 10.05.2019 and thereafter posted for arguments from 11.06.2019 till 19.03.2020 and thereafter the matter had been adjourned due to covid-19 situations now and then and subsequently the Public Prosecutor and A3 submitted their arguments and thereafter as no arguments were putforth by the other accused, judgment was reserved and at that stage, it is seen that the present petition has been laid by the petitioner/A5. Considering the abovesaid factors in toto, it is evident that the petitioner has not been diligent in projecting her defence version and taking her own time in cross examining the prosecution witnesses, particularly, when it is found that A2 to A7 belonged to the same family and when A3 had already filed various petitions for recalling the prosecution witnesses and when they were allowed and though the petition preferred by A3 in CrI.M.P.No.2011 of 2019 to recall P.W.55 had been entertained, despite the abovesaid position, P.W.55 had not been cross examined and thereafter when the matter stood adjourned for arguments and judgment, it is seen that the present petition has come to be laid by the petitioner. As to why the petitioner had not endeavoured to cross examine P.W.55 at the time when he was examined in chief, no proper explanation

is forthcoming on the part of the petitioner. As rightly held by the Court below with reference to the cause projected by the petitioner that she is suffering from back pain and due to the illness of her child, she was unable to cross examine P.W.55, absolutely there is no material forthcoming even to prima facie substantiate the same. In such view of the matter, the inevitable conclusion that could be drawn, as rightly determined by the Court below, the petitioner has not adduced any proper reason for recalling P.W.55 for cross examination. When the endeavour of the petitioner is clearly evident that the present petition is only intended to delay the proceedings endlessly, as rightly held by the Court below, the petition preferred by the petitioner for recalling P.W.55 is totally bereft of valid and acceptable reasons and in such view of the matter, the Court below is found to be justified in dismissing the petition preferred by the petitioner.

6. In the light of the abovesaid factors, I do not find any error or infirmity in the impugned order passed by the Court below. In conclusion, the Criminal Original Petition is dismissed. Consequently, connected miscellaneous petitions are also closed.

-s/d-

Assistant Registrar

True Copy

Sub-Assistant Registrar

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To

1. The Inspector of Police,
Economic Offence Wing-II,
Erode District.

2. The Special Judge for TNPID Cases
Coimbatore

3. The Public Prosecutor,
High Court, Madras

Crl.O.P.No.19349 of 2020
and

Crl.M.P.Nos.7774 & 7775 of 2020

UM(CO)
SP(20/01/2021)