



BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT
DATED: 05.02.2020

CORAM:

THE HONOURABLE MR. JUSTICE A.D.JAGADISH CHANDIRA

Crl.O.P.(MD) No.1861 of 2020

and

Crl.M.P(MD)No.899 of 2020

WEB COPY

A.Subramanian

... Petitioner/Accused

Vs.

S.Manimuthavan

... Respondent/Complainant

PRAYER: Criminal Original Petition filed under Section 482 Cr.P.C. praying to set aside the order passed in Miscellaneous Petition No.12095 of 2019 in CC No.86 of 2017 order dated 24.10.2019 on the file of the learned Judicial Magistrate No.VI, Tiruchirapalli pending disposal of the original petition.

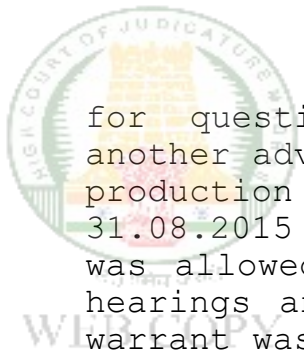
For Petitioner : Mr.C.M.Arumugam

ORDER

This petition has been filed seeking direction to to set aside the order passed in Miscellaneous Petition No.12095 of 2019 in CC No.86 of 2017 order dated 24.10.2019 on the file of the learned Judicial Magistrate No.VI, Tiruchirapalli.

2. The learned counsel for the petitioner would submit that any Court may, at any stage of any inquiry, trial or other proceeding under this Code, summon any person as a witness, or examine any person in attendance, though not summoned as a witness, or recall and re-examine any person already examined; and the Court shall summon and examine or recall and re-examine any such person if his evidence appears to it to be essential to the just decision of the case, thereby he would seek to set aside the order passed by the learned Judicial Magistrate No.VI, Tiruchirapalli in Miscellaneous Petition No.12095 of 2019 in CC No.86 of 2017.

3.In this case PW1 had been examined in chief on 24.01.2018 and at his request the matter has been posted for cross examination 11.01.2018. On that day another advocate has appeared before the Court and sought for time. Thereafter the case has been posted on 24.01.2018 and once again at the request of the accused the case was adjourned to 14.12.2018. On 14.12.2019 the parties have informed that there was settlement in that case and hence the case had been posted to 19.03.2018. While so on 19.03.2018, the petitioner did not appear before the Court and the Court has issued Nonailable Warrant and thereafter the petitioner appeared before the Court on 02.08.2018 and had recalled the warrant. On 12.09.2018, PW.1 was cross examined thereafter the case has been posted to 08.10.2018



for questioning under Section 313(1)(b) of Cr.P.C. Thereafter another advocate appeared before the Court and filed a petition for production of bank statements for a period from 01.06.2015 to 31.08.2015 and since no objection has been raised, the said petition was allowed. Thereafter the case had been adjourned for several hearings and since the petitioner did not appear before the Court warrant was once again issued on 14.03.2019. The petitioner recalled the warrant on 25.04.2019. Thereafter sufficient time was given for arguments and the case was posted on 27.06.2019, 04.07.2019 and 11.07.2019 for arguments and thereafter on 11.07.2019 arguments have been completed on the side of the complainant. At that stage the petitioner has once again filed a petition for recalling PW 1 and he was recalled and cross examination was done on the same day. Thereafter matter was posted for arguments of the petitioner/accused on 26.07.2019 on the day, the petitioner did not appear and once again warrant was issued and once again it was recalled. Thereafter the case stands posted for arguments. The petitioner had been taking time for arguments and the petition has been filed belatedly.

4. The trial judge finding that that the petitioner has filed a petition only to delay the trial had dismissed the petitioner.

5. Perused the materials on record. The trial Court observing the conduct of the petitioner had dismissed the petition stating that it has been filed only with the intention of delaying the proceedings.

6. This Court find no infirmity or illegality in the order passed by Court below. Hence the Criminal Original Petition stands dismissed. Consequently connected miscellaneous petition is also dismissed.

Sd/-

Assistant Registrar (CS-II)

// True Copy //

/ /2020

Sub Assistant Registrar(CS)

aav

To

1. The Judicial Magistrate No.VI, Tiruchirapalli
2. The Chief Judicial Magistrate, Trichy

+1 CC to Mr.C.M.ARUMUGAM, Advocate (SR-5240[F] dated 07/02/2020)

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06.02.2020