



BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

DATED : 09.03.2020

CORAM:

THE HONOURABLE MR.JUSTICE G.R.SWAMINATHAN

Crl.O.P. (MD)No.4284 of 2020

and

Crl.M.P. (MD)Nos.2384 and 2385 of 2020

P.C.Muralidharan

... Petitioner/Petitioner/Sole
Accused

-vs-

The State represented by
The Inspector of Police,
Pattiveeranpatti Police Station,
Dindigul District.
(In Crime No.62 of 2011)

... Respondent/Respondent/
Complainant

PRAYER: Petition filed under Section 482 of the Criminal Procedure Code to call for the records pertaining to the order dated 31.01.2020 made in Cr.M.P.No.4666 of 2019 in S.T.C.No.586 of 2011 on the file of the Judicial Magistrate, Nilakkottai and set aside the same.

For Petitioner	:	Mr.D.Senthil
For Respondent	:	Mr.A.Robinson
		Government Advocate (Crl.side)

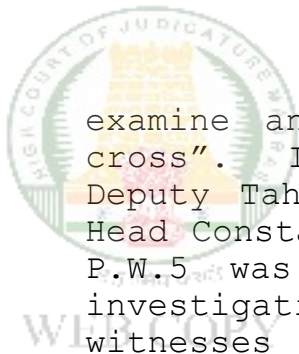
O R D E R

The petitioner is facing trial in the offences under Section 171(E) of IPC in S.T.C.No.586 of 2011 on the file of the learned Judicial Magistrate, Nilakkottai. The petitioner is the sole accused. He filed Cr.M.P.No.4666 of 2019 under Section 311 of Cr.P.C., for recall of the witness who were already examined in chief but who were not cross examined. The learned trial Magistrate by order dated 31.01.2020 has dismissed the said recall petition. Challenging the same, this Criminal Original Petition came to be filed.

2.The learned counsel for the petitioner reiterated the contentions set out in the memorandum of grounds and wanted this Court to set aside the impugned order and allow this Criminal Original Petition.

3.Per contra, the learned Government Advocate submitted that the impugned order does not warrant any interference.

4.I carefully considered the rival contentions. It is seen that P.W.1 to P.W.3 were examined as early as on 26.08.2011, P.W.4 and 5 have been chief examined on 20.04.2012 and P.W.6 was examined in chief on 09.06.2017. The petitioner did not bother to cross



examine any of the witnesses. His counsel simply reported "no cross". It is relevant to note here that P.W.1 was the Regional Deputy Tahsildar during the relevant time. P.W.3 was working as Head Constable. P.W.4 was working as a Sub-Inspector of Police and P.W.5 was also working as a Head Constable. P.W.6 was the investigation officer. We do not know as to where the official witnesses are working as on date. Some may have retired. It would lead to considerable delay.

5.I had a look at the petition filed under Section 311 of Cr.P.C. I am sorry to state that the petition has been filed in a stereo typed format. No reason whatsoever has been assigned. The learned counsel for the petitioner was probably under the impression that recall is a matter of birth right. It is not so. If the witnesses are not cross examined on the same day and sought to be cross examined after several years, it would cause great hardship to the said witnesses. The learned Trial Magistrate was justified in dismissing the recall petition filed by the petitioner herien. No case is made out for intereference.

6.With this observation, this Criminal Original petition is dismissed. Consequently, connected miscellaneous petitions are closed.

Sd/-

Assistant Registrar (Writs)

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/ /2020

Sub Assistant Registrar(CS)

pnn

To

1.The Judicial Magistrate, Nilakkottai.

2.The Inspector of Police,
Pattiveeranpatti Police Station,
Dindigul District.

3.Additional Public Prosecutor,
Madurai Bench of Madras High Court, Madurai.

+1 CC to M/s.D.SENTHIL, Advocate (SR-10706[F] dated 10/03/2020)

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09.03.2020

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