

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 17.02.2021

CORAM

THE HONOURABLE MR. JUSTICE N. ANAND VENKATESH

Crl. OP No.1596 of 2021

1. Jothimani
Inspector (Retd.)
Arakkonam Taluk Police Station,
Arakkonam, Vellore District.
 2. Jayaseelan
Sub- Inspector (Retd.)
Arakkonam Taluk Police Station,
Arakkonam, Vellore District. ...Petitioners/Accused -1 & 2
- vs.
- K.R.Chalapathy ... Respondent/Complainant

PRAYER: Criminal Original Petition filed under Section 482 of the Code of Criminal Procedure, to set-aside the order dated 23.11.2020 in C.M.P.No.586 of 2020 in C.C.No.336 of 2012, on the file of Judicial Magistrate, Arakkonam and permit the petitioners to continue the cross examination of P.W.1 and marking of above said documents.

For Petitioner : Mr.S.Vijayanand
For Respondents: Mr.R.Sasikumar

ORDER

This petition has been filed challenging the order passed by the Court below dismissing the application filed under Section 311 of the Code of Criminal Procedure to recall P.W.1 for further cross-examination.

2. The respondent has filed the private complaint before the Court below in the year 2012 for an offence under Sections 294 (b), 347, 384, 420 and 506(ii) of IPC. The respondent was examined in chief as P.W.1 on 18.11.2014 and the documents were marked on 14.05.2015. Thereafter in spite of giving opportunity, the petitioners did not cross-examine the respondent and the evidence was closed on 13.08.2015. The petitioners filed an application under Section 311 of the Code of Criminal Procedure

in CMP No.7034 of 2017 to recall P.W.1 for cross-examination and the same was allowed by an order dated 28.03.2017. Even thereafter the respondent was only partly cross-examined and in spite of repeated opportunity, the petitioners chose not to cross-examine the respondent and left with no other option, the evidence was closed on 09.05.2018. Thereafter the petitioners have again filed an application under Section 311 of the Code of Criminal Procedure, to recall P.W.1 in the year 2020. The Court below has dismissed the application by an order dated 23.11.2020. Aggrieved by the same, the present petition has been filed before this Court.

3. Heard Mr.S.Vijayanand, learned counsel appearing for the petitioners and Mr. R.Sasikumar, learned counsel appearing for the respondent.

4. In the considered view of this Court, there is absolutely no illegality or infirmity in the order passed by the Court below. The petitioners were given sufficient opportunity to cross-examine P.W.1 and in spite of the same, the petitioners for reasons best known to them failed to take advantage of the opportunities. This case has been pending from the year 2012 onwards and due to the attitude of the petitioners, there has been no progress in this case. There are absolutely no grounds to interfere with the order passed by the Court below.

5. In the result, this Criminal Original Petition is dismissed and there shall be a direction to the Court below to complete the proceedings in CC No.336 of 2012 within a period of two months from the date of receipt of a copy of this order.

Sd/-
Assistant Registrar

//True Copy//
सत्यमेव जयते

Sub Assistant Registrar

jv
To
The Judicial Magistrate,
Arakkonam.

+1 cc to M/s.R.Sasikumar, Advocate Sr.No. 9368

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AAB (CO)
RMP (17/03/2021)