



WEB COPY

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 12.07.2021

CORAM:

THE HON'BLE MR.JUSTICE M.NIRMAL KUMAR

CRL.O.P.No.11895 of 2021

D.Appusamy
S/o, K.Devaraj

... Petitioner

Versus

State of Tamilnadu Represented by
The Inspector of Police,
All Women Police Station,
Coonoor,
The Nilgiris District.

... Respondent

PRAYER: Criminal Original Petition filed under Section 482 of the Code of Criminal Procedure, to set aside the order dated 05.04.2021 made in Crl.M.P.No.201 of 2021 in Spl.C.C.No.3 of 2017 on the file of the Sessions Judge of the Magalir Neethimandram, (FTMC), Udthagamandalam, Nilgiris.

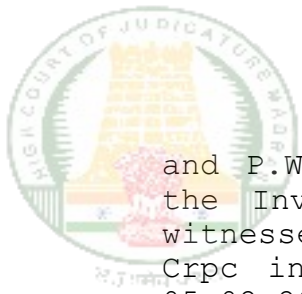
For Petitioner : Mr.G.Saravanan

For Respondent : Mr.E.Raj Thilak
Government Advocate(Criminal Side)

ORDER

The petition has been filed by the petitioner to set aside the order dated 05.04.2021 made in Crl.M.P.No.201 of 2021 in Spl.C.C.No.3 of 2017 on the file of the Sessions Judge of the Magalir Neethimandram, (FTMC), Udthagamandalam, Nilgiris.

2. The petitioner working as a Headmaster in the CSI Primary School, Kolakombai. He had made some improper touch with two children who are studying 3rd and 5th standards in his school. According to the petitioner, the petitioner falsely implicated in this case, since there was some rivalry and dispute with the management of the school. Further the enquiry officer has not stated anything against the petitioner and the petitioner has been falsely implicated at the instigation of the rival groups. He further submitted that P.W.9 District Coordinator of the Udthagamandalam District Project Office of Sarvashiksha Abhiyan



and P.W.11 is the teacher working in the school and P.W.20 is the Investigating officer. To recall all these three witnesses, he has filed C.M.P.No.201 of 2011 under section 311 Crpc in the lower court. The trial court by an order dated 05.02.2021 dismissed the same against which the petitioner has filed this petition since the evidence are vital to arrive at a conclusion in the case.

3. The learned Public Prosecutor has submitted that the petitioner had not given proper reason for recalling the witnesses namely P.W.9,11 and 20. The petition filed by the petitioner in the lower court to recall the abovesaid witnesses is in a printed manner without any reason and any essential facts. The trial court has given a detailed order while dismissing the recall petition. Now in the second application, he has not mentioned about the earlier recall of the witnesses and no reason has been given. This case is at the stage of examination of defence witnesses. The trial before the lower court is almost completed. The petitioner accused has also been examined under section 313 Crpc. Hence prayed for the dismissal of the petition.

4. Considering the submissions and the materials available on record, it is seen that the petitioner had cross examined all the three witnesses namely P.W.9, 11 and 20 and the cross examination has been exhaustive and covering all the points with regard to P.W.9, P.W.11. P.W.20 is the Investigating officer who is in service and with regard to whom only the formal cross examination has been conducted. Hence this Court feels appropriate in recalling P.W.20 the Inspector of Police alone for further cross examination. The lower court order with regard to P.W.9 and 11 is confirmed and with regard to P.W.20 is set aside, the petitioner is permitted to recall the witness P.W.20 on the date on which the witness appears without seeking any further adjournment. Cross examination to be completed. The trial court is directed to proceed and complete this exercise within 15 days after the commencement of the normal functioning of the court.

5. With the above directions, the Criminal Original Petition is disposed of.

Sd/-
Assistant Registrar

//True Copy//

Sub Assistant Registrar

mfa



To

1. The Sessions Judge of the Magalir Neethimandram, (FTMC),
Udhagamandalam, Nilgiris.

2. The Inspector of Police,
All Women Police Station,
Coonoor,
The Nilgiris District.

3. The Public Prosecutor,
High Court,
Madras.

+1cc to Mr.R.Sugumaran, Advocate (SR No.32762)

CRL.O.P.No.11895 of 2021

PCH (CO)
PR (22/07/2021)