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IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 24.09.2021

CORAM :

THE HONOURABLE MR.JUSTICE M.NIRMAL KUMAR

Crl.O.P.No.17201 of 2021

and

Crl.M.P.No.9433 of 2021

S.D.Prabhakaran,  
S/o. J.V. Sham Dharmaraj

...Petitioner

-Vs-

State rep by,  
The Inspector of Police (220),  
B-4, Race Course,  
Coimbatore-18.

..Respondent

Prayer : Criminal Original Petition filed under Section 482 of the Criminal Procedure Code, to call for the records and set aside the order passed in Crl.M.P.No.2819 of 2020 in C.C.No.249 of 2014 dated 15.04.2021 on the file of the Judicial Magistrate No.III at Coimbatore.

For Petitioner : Mr.C.Deivasigamani

For Respondents : Mr.A.Damodaran  
Additional Public Prosecutor

O R D E R

(This case has been heard through video conference)

The petitioner, who is an accused in C.C.No.249 of 2014 has filed a petition Crl.M.P.No.2819 of 2020 under Section 243 of Criminal Procedure Code to examine (1) Dr. Rajendran and (2) Inspector of Police, PCR Wing. The Trial Court dismissed the same for the reason that earlier, this court had dismissed the similar petition in Crl.O.P.No.21492 of 2017. Against which, the present petition.

2. The contention of the petitioner is that in Crl.O.P. No.21492 of 2017. this Court had observed as follows :-

"In so far as the Doctor and the Inspector of P.C.R. Wing Offence are concerned, the petitioner does not even say the purpose for which they need to be examined. The petition filed before the court below is



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completely bald without any reasons and therefore, the Court below rightly came to a conclusion that the examination of these witnesses are not required to come to a fair and just decision in this case."

and dismissed the petition.

3. Now, the petitioner has given a reason that as regards Dr.Rajendiran, to speak about the injuries caused to him and treatment given to the petitioner on 11.04.2014. As regards Inspector of police to speak about the complaint given by the petitioner. Assailing these points, he has filed the above petition.

4. The Addl. Public Prosecutor appearing for respondent would submit that the calender case is of the year 2014, for the past 7 years, the petitioner successfully dragging on the case. Hence, the lower court not only dismissed the petition on the ground that earlier, the petitioner has filed a petition in CrI.O.P.No.21492 of 2017 for the same prayer, it had observed that the petitioner was questioned under Section 313 of CrI.P.C. on 04.02.2016, i.e. five years before and thereafter after lapse of five years, the present petition has been filed, which is not proper. Earlier, petition filed under Sec.243 of CrI.P.C. was dismissed on 06.09.2017, in which, no reasons given for the inordinate delay. The petitioner by filing one or other petitions for one reason or other reasons, successfully protracting the trial and not permitting the lower court to complete the proceedings. This is one more tactics adopted by the petitioner to protract the trial and hence, he strongly objected. He would further submit that the case is at the final stage except for rendering the judgment.

5. Heard submissions of learned counsel appearing for petitioner and learned Addl. Public Prosecutor appearing for respondent and perused the records.

6. Considering the submissions and on perusal of materials, this Court finds that the petition filed by the petitioner for the same prayer is not maintainable, since this court earlier dismissed the petition in CrI.O.P. No. 21492 of 2017 by an order dated 22.11.2018. Now also, the petitioner has not given any reasons. The petitioner in the questioning under Sec.313 of CrI.P.C., not produced any document showing that he had sustained injury and also in the earlier complaint. This ground raised by the petitioner appears to be made only to avoid the hearing and no proper reason was given. This Court further considering the fact that the petitioner was questioned under Sec.313 of CrI.P.C. on 04.02.2016 and the present petition was filed after completion of five years and also finding that the trial court rightly dismissed the same and no reason to



interfere with the finding of the lower court. In view of the same, this Criminal Original Petition is dismissed and this Court directs the Trial Court to conclude the trial in C.C.No.249 of 2014 within a period of three weeks from the date of the receipt of the order copy. The period of three weeks only for outer limit. Consequently, the connected Criminal Miscellaneous Petition is closed.

Sd/-  
Assistant Registrar(CS V)

//True Copy//

Sub Assistant Registrar

rpp/nr  
To

1.The Judicial Magistrate No.III at Coimbatore.

2..The Inspector of Police (220),  
B-4, Race Course,  
Coimbatore-18.

3. The Public Prosecutor,  
High Court, Madras.

Crl.O.P.No.17201 of 2021  
and  
Crl.M.P.No.9433 of 2021

PCH(CO)  
A.SK(13.10.2021)