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IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 06.10.2021

CORAM

THE HON'BLE MR.JUSTICE M.NIRMAL KUMAR

Crl.O.P.No.18002 of 2021

and

Crl.M.P.No. 9905 of 2021

P.Hanumantha Rao

...Petitioner

Versus

The State Represented by
The Inspector of Police,
Central Crime Branch,
Chennai.

...Respondent

Prayer: This Criminal Original Petition is filed under Section 482 of Criminal Procedure Code praying to call for the records in C.C.No.125 of 2021 on the file of the learned Judicial Magistrate - I, Kancheepuram and set aside the order dated 16.09.2021 in Crl.M.P.No. 2228 of 2021.

For Petitioner : Mr.S.Janarthanan

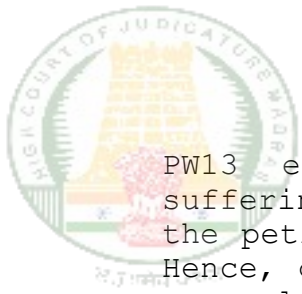
For Respondent : Mr.R.Vinoth Raja
Government Advocate (Crl.Side)

O R D E R

This petition has been filed to call for the records in C.C.No.125 of 2021 on the file of the learned Judicial Magistrate - I, Kancheepuram and set aside the order dated 16.09.2021 in Crl.M.P.No.2228 of 2021.

2. The petitioner, who is the second accused in C.C.No.125 of 2021, is facing trial for the offence under Sections 419, 420, 467, 468 r/w 109 and 471 r/w 468 and 109 of IPC, has filed the petition under Section 311 of Cr.P.C. in CMP.No.2228 of 2021. The trial Court by the order dated 16.09.2021 dismissed the same, against which, the petitioner has filed the above petition.

3. The contention of the petitioner is that the petitioner earlier filed a petition under Section 311 of Cr.P.C., dated 12.08.2015 seeking recall of the witnesses PW4 to



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PW13 except (PW7). In the meanwhile, the petitioner was suffering from Live Cancer, added to it, the learned counsel for the petitioner had recently undergone eye surgery on 13.09.2021. Hence, on the day when PW4 to PW6 were present, the petitioner's counsel was unable to cross examine the witnesses. The Lower Court without considering the same, dismissed the petition.

4. The learned Government Advocate (Crl.Side) has submitted that in this case, the investigation taken place in the year 2007, thereafter, charge sheet filed and the same was taken on file in CC.No.72 of 2008. Thereafter, it has been transferred to the present Court and re-numbered as C.C.No.125 of 2021. In this case, totally 14 witnesses have been examined. The petitioner has given one reason or the other and drag on the trial and not cross examined the witnesses. The petitioner earlier filed a petition under Section 311 of Cr.P.C., in the year 2015 and the Lower Court had permitted the petitioner to recall and cross examine PW4 to PW13 except (PW7). Thereafter, the present petition is filed only to drag on the the proceedings.

5. It is the submission of the learned counsel for the petitioner that the petitioner has undergone medical treatment and produced medical report dated 08.09.2021 before the Lower Court. On verification of the same, it would show that the medical report has been obtained in the name of the petitioner, when he had not appeared before the Hospital.

6. Likewise, another report in the name of one Janarthanam, who is the counsel for the respondents 4 to 6, stating that on 13.09.2021 he had undergone laser treatment in both of his eyes. However, hearing date of the trial of their case is well known to the petitioner as well as to his counsel. Hence, it is clear that by giving on reason or other, they are protracting the trial.

7. Considering the submission and perused the materials, it is seen that in this case, chief examination of witnesses have been completed as early as on 02.09.2009. Thereafter, recall petition was allowed on 12.08.2015. Subsequently, by stating one reason or the other, the witnesses were not cross examined and the trial have been protracted. PW4 to PW6 were present on 14.09.2021 and on that day, they were not cross examined and immediately the counsel for the petitioner has filed a petition on 16.09.2021. Hence, the Lower Court had dismissed the petition on the same day.

8. In view of the same, it is seen that the case has been pending from the year 2008 and the petitioner has protracted the case for all these years and hence, the trial



Court has rightly dismissed the petition. Therefore, this Court is not inclined to entertain this petition.

9. Accordingly, this Criminal Original Petition is dismissed. Consequently, connected Miscellaneous Petition is also closed.

Sd/-
Assistant Registrar(CS IV)

//True Copy//

Sub Assistant Registrar

dna/drm
To

1.The Judicial Magistrate - I,
Kancheepuram.

2.The Inspector of Police,
Central Crime Branch,
Chennai.

3.The Public Prosecutor
High Court, Madras.

+1cc to M/s.S.Janarthanan, Advocate Sr.52927

Cr1.O.P.No.18002 of 2021
an
Cr1.M.P.No. 9905 of 2021

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srg 10/11/2021