



IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 15.12.2021

CORAM:

THE HON'BLE MR.JUSTICE V.BHARATHIDASAN

Crl.O.P.No. 23899 of 2021

M.P.Arumugam,
S/o. Palani

... Petitioner

Versus

State by
The Inspector of Police,
Vigilance and Anti-Corruption,
Salem.
(Crime No.2/AC/2008)

... Respondent

PRAYER : Criminal Original Petition filed under Section 482 of the Code of Criminal Procedure, to set aside the order dated 10.02.2020 passed in Crl.M.P.No.59 of 2020 in Spl. C.C.No.93 of 2014 on the file of Special Judge, Special Court for Trial of Cases under the Prevention of Corruption Act, Salem.

For Petitioner : Mr.C.Prakasam

For Respondent : Mr.C.E.Pratap,
Govt. Advocate (Crl. Side)

ORDER

Against the order dismissing the petition filed under Sec.311 of Cr.P.C. to recall P.W.1 to 5 and 11, the present Criminal Original Petition has been filed.

2. The petitioner is arrayed as 2nd accused in Spl. C.C.No. 93 of 2014 and he has been charged with for an offence under Sec.167, 409, 465, 468, 471, 477-A of I.P.C. and under Sec.13(2) r/w 13(1)(c) and (d) of Prevention of Corruption Act. After framing charges, the trial has commenced and the prosecution side witnesses was opened on 12.12.2014 and P.W.1 was examined on the same day. Both P.W.1 and P.W.2 were cross-examined by A1 and A2 on 19.08.2015. P.W.5 was examined on 02.12.2015 and on 16.12.20215, but both accused did not cross-examine him. Thereafter, P.W.11 was examined on 19.07.2015, but he was not



cross-examined by the accused. After closing of prosecution evidence on 20.11.2019, learned Special Judge posted the matter for defence side evidence on 29.01.2020. At that time, the present petition has been filed to recall all the witnesses. The Trial Court has partly allowed the petition, thereby permitted the petitioner to recall P.W.14 and dismissed the petition in respect of other witnesses. Now, challenging the same, the present Criminal Original Petition has been filed.

3. Heard rival submissions made by learned counsel appearing for petitioner as well as learned Government Advocate appearing for respondent and perused the records.

4. On perusal of records, it could be seen that the examination of prosecution witnesses as well as cross-examination of all the prosecution witnesses commenced from the year 2015 and the prosecution evidence was closed in the year 2019. Thereafter, the matter was listed for defence side evidence. At that time, the present petition has been filed without giving any reason for recalling the prosecution witnesses. The Trial Court after considering entire materials has rightly dismissed the petition in respect of P.W.1, P.W.2, P.W.5 and P.W.11, however, considering the fact that P.W.14 was not cross-examined by the accused, allowed the petition to recall P.W.14. On perusal of materials, I am of the view that the petition has been filed only in order to delay the trial. The Trial Court has rightly considered all those materials and dismissed the petition. I find no irregularity in the order passed by the trial court in Crl.M.P.No.59 of 2020 in Spl.C.C.No.93 of 2014. Accordingly, this Criminal Original Petition is dismissed.

Sd/-
Assistant Registrar

True Copy//

Sub Assistant Registrar

rpp

To

1. The Special Judge,
Special Court for Trial of Cases under
Prevention of Corruption Act,
Salem.



2. The Inspector of Police,
Vigilance and Anti-Corruption,
Salem.

3. The Public Prosecutor,
High Court, Madras.

+1cc to Mr.C.Prakasam, Advocate, S.R.No.67396

CRL.O.P.No. 23899 of 2021

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NSK 19/01/2022