



that order of process was issued in September-2016. Thereafter evidence of complainant was adduced by way of affidavit-in-evidence. The accused did not cross-examine the complainant. Hence the Magistrate passed order of no cross on 10<sup>th</sup> February 2022. Thereafter Trial Court recorded statement u/s.313 of Cr.PC of accused. The accused thereafter preferred application for recalling the order dated 10<sup>th</sup> February 2022 u/s.311 of Cr.PC for the purpose of cross examining the complainant. The said application has been allowed by order dated 28<sup>th</sup> July 2020. It is submitted that in the circumstances this Court may not entertain this petition for setting aside order of process which was issued in the year 2017. Reliance is placed on the decision of Supreme Court in the case of John Thomas Vs. Dr.K.Jagadeesan delivered in Criminal Appeal No.688 of 2001 (arising out of SLP [Cri.] No.1875 of 2001, dated 12<sup>th</sup> July 2001.

4. It is pertinent to note that complaint is pending before the Court from 2016. Process was issued on 8<sup>th</sup> September 2017. Thereafter evidence was adduced. The complainant was not cross- examined. Hence Court was constrained to pass order of no cross. It continued for long period of time. Hence statement u/s.313 of accused was recorded and thereafter Magistrate has allowed the application for recalling the complainant for cross examination. Considering the fact that case is at almost final stage, it would not be appropriate to interfere in the proceedings. Hence, application is dismissed. The issues urged in this petition can be adjudicated in trial.

(PRAKASH D. NAIK, J.)

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