



IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 12.04.2022

CORAM

THE HONOURABLE MR.JUSTICE R.PONGIAPPAN

Crl.R.C.No.342 of 2022
and Crl.M.P.No.3617 of 2022

Vinoth Kumar

... Petitioner

Vs.

The State represented by
The Inspector of Police,
Perambalur Police Station,
Perambalur District.
(Crime No.1159 of 2009)

... Respondent

PRAYER: Criminal Revision Case filed under Section 397 and 401 of Cr.P.C. to call for the records in J.C.No.18 of 2013 on the file of the Juvenile Justice Board, Perambalur District and set aside the order passed in C.M.P.No.22 of 2021 in J.C.No. 18 of 2013 by the learned Principal Magistrate, Juvenile Justice Board, Perambalur, dated 19.11.2021 and allow the petition to recall P.W.1 to P.W.3 and P.W.15 for cross.

For Petitioner : Mr.A.N.Rajan

For Respondent : Mr.Leonard Arul Joseph Selvam
Government Advocate (Crl. Side)

ORDER

This Criminal Revision Case has been filed praying to set aside the order dated 19.11.2021 passed in C.M.P.No.22 of 2021 in J.C.No. 18 of 2013 by the learned Principal Magistrate, Juvenile Justice Board, Perambalur, and allow the petition to recall P.W.1 to P.W.3 and P.W.15 for the purpose of cross-examination.

2. The case of the petitioner is that he is an accused in J.C.No.18 of 2013 and the said case has been registered as against the petitioner and others in Crime No.1159 of 2009 for the offences punishable under Sections 147, 148, 342, 326 & 302 of IPC. After completing investigation, the respondent filed final report as against six accused, wherein except the revision petitioner, others are crossed the age of 21 years. Therefore, the case, as against the other accused was separated out and committed to the Court of Sessions, whereas all the accused were



acquitted from the alleged crime by the judgment made in S.C.No.75 of 2010 dated 25.09.2012. Therefore, as of now, the petition mentioned case alone is pending as against the petitioner.

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3. In this occasion, before the trial Court due to the reason that the learned counsel who appeared on behalf of the petitioner is not available on the date on which P.W.1 to P.W3 and P.W.15 gave evidence the cross examination of those witnesses have not been completed. Hence, the petitioner filed a petition under Section 311 of Cr.P.C., before the Juvenile Justice Board and the same has been dismissed by an order dated 19.11.2021. Challenging the same, the petitioner is before this Court with the present revision.

4. The learned counsel appearing for the petitioner would contend that due to the reason that the learned counsel appearing for the petitioner absent on that day, the cross-examination of those witnesses have not been completed. In other wise, the petitioner is not having any intention to drag the entire proceedings. He would further submit that in order to give sufficient opportunity to the petitioner, he prays to allow this revision.

5. Per contra, the learned Government Advocate (Crl. Side) appearing for the respondent police would submit that the petition under Section 311 of Cr.P.C., filed by the petitioner with huge delay and therefore, this type of revision cannot be entertained.

6. Considered the submissions made by the learned counsel appearing on either side and perused the materials on record.

7. In the impugned order, the learned Principal Magistrate, Juvenile Justice Board, has categorically stated that the petition mentioned application under Section 311 of Cr.P.C., was filed after the period of four years from the date on which P.W.1 to P.W.3 and P.W.15 were examined in chief. Further it was held that in view of the judgment rendered by our Hon'ble Apex Court, the cross examination of the witnesses should be done on the date on which the chief examination were recorded.

8. Considering the said averments stated in the impugned order, the reasoning given by the learned Principal Magistrate is found correct and there is no another view on that aspect. However, here it is a case that the other accused who were involved in this case are all acquitted by the Session Court. Further being the reason that the petitioner/accused involved in the offence of 302 of IPC., it would necessary to give



sufficient opportunity to cross-examine the witnesses. Therefore, I am of the considered view that for the interest of justice, the impugned order dated 19.11.2021 has to be set aside.

9. Accordingly, the order dated 19.11.2021 passed by the learned Principal Magistrate, Juvenile Justice Board, Perambalur in C.M.P.No.22 of 2021 in J.C.No. 18 of 2013, is hereby set aside. The learned Principal Magistrate, Juvenile Justice Board, Perambalur, is directed to send summons to P.W.1 to P.W.3 and P.W.15 by fixing a single day and after their appearance, the petitioner is directed to complete the cross-examination on the same day without fail.

10. With the above directions, this Criminal Revision Petition is allowed. Consequently, the connected miscellaneous petition is closed.

Sd/-
Assistant Registrar

//True Copy//

Sub Assistant Registrar

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To

1. The Principal Magistrate,
Juvenile Justice Board,
Perambalur.
2. The Inspector of Police,
Perambalur Police Station,
Perambalur District.
3. The Public Prosecutor,
Madras High Court,
Chennai.

+1cc to Mr.A.N.Rajan, Advocate, S.R.No.25648

Cr1.R.C.No.342 of 2022

NRL(CO)
SB(20/04/2022)