



WEB COPY

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 20.06.2022

CORAM:

THE HONOURABLE MR.JUSTICE N. SATHISH KUMAR

Crl.O.P. No.6085 of 2022 & Crl.M.P.No.3384 of 2022

M.M.Rangasamy

... Petitioner

Vs.

State Rep. by The Sub Inspector of Police,
City Crime Branch, Coimbatore.

... Respondent

PRAYER: Criminal Original Petition filed under Section 482 of Criminal Procedure Code, to call for the records in C.M.P.No.614 of 2022 in C.C.No.160 of 2005 on the file of the Judicial Magistrate No.V, Coimbatore, set aside the impugned Order dated 18.02.2022 passed by the learned Magistrate.

For Petitioner : Mr.C.S.Dhanasekaran

For Respondent : Mr.A.Gokulakrishnan
Additional Public Prosecutor

O R D E R

This Criminal Original Petition has been filed to set aside the Order passed by the trial Court permitting the prosecution to recall P.W.1 and file certain documents which were already filed along with the final report.

2. The learned Judicial Magistrate by his Order dated 18.02.2022 allowed the petition considering the circumstances of the case that the trial is pending for more than 17 years, has ordered to recall the witness considering the fact that the documents have been filed along with the final report.

3. Heard the learned counsel appearing for the petitioner and the learned Additional Public Prosecutor appearing for the respondent.



4. The learned counsel appearing for the petitioner mainly objected on admissibility of the documents sought to be relied upon by the prosecution and submitted that the prosecution cannot be given a chance to fill up the lacunae in the prosecution case. His yet another objection is that the petition has been filed by the Assistant Public Prosecutor and not by the Police. Therefore, such a petition is not maintainable.

5. At the outset this Court is unable to persuade itself the submissions of the learned counsel appearing for the petitioner that the Court has no power to summon any witness or recall witness to bring any matters which are relevant to the facts in issue. The very allegation in the petition filed by the Assistant Public Prosecutor will indicate that the documents were omitted to be marked through P.W.1 which were filed along with the final report. Such being the position, it cannot be construed that the documents have been sought to be introduced only to fill up the lacunae. If the petitioner has any legal objections in respect of the documents, the same can be raised by the him at the time of marking the documents. Thereafter, the trial Court shall take on call on the admissibility of those documents while disposing the main case.

6. The other submission of the petitioner that the petition filed by the Assistant Public Prosecutor is not maintainable, also has no legs to stand. The Public Prosecutor is appointed to conduct trial before the trial Court and it is the duty of the Public Prosecutor to place all the material facts and documents before the trial Court. Therefore, it cannot be said that such a petition is not maintainable. Hence, I do not find any merits in this petition.

7. Accordingly, this Criminal Original Petition is dismissed. Consequently, connected miscellaneous petition is closed. The trial Court shall expedite the trial and dispose of the case within a period of six months from the date of receipt of a copy of the Order.

Sd/-
Assistant Registrar (CCC)

//True Copy//

Sub Assistant Registrar

vrc



1. The Judicial Magistrate No.V,
Coimbatore.
2. The Sub Inspector of Police,
City Crime Branch, Coimbatore.
3. The Public Prosecutor,
High Court of Madras.

+1cc to Mr.C.S.Dhanasekaran, Advocate, S.R.No.37038

Crl.O.P. No.6085 of 2022

SKM(CO)
UMA(30/06/2022)