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IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 25.03.2022

CORAM:

THE HONOURABLE MR.JUSTICE R.PONGIAPPAN

Crl.R.C.No.377 of 2022
and
Crl.M.P.No.3863 of 2022

Sindhu

...Petitioner / A-3

versus

The State Rep.,
by the Inspector of Police,
E.O.W.-II, Coimbatore.
(Crime No.1 of 2016)

... Respondent / Complainant

PRAYER: Criminal Revision Petition has been filed under Section 397 & 401 of the Code of Criminal Procedure, praying to set aside the order dated 02.03.2022 passed in Cr.M.P.No.143 of 2022 in C.C.No.5 of 2017 on the file of the learned Special Judge, Special Court under TNPID Act, Coimbatore.

For Petitioner : Mr.E.P.Senniyangiri

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

O R D E R

The present Criminal Revision Case has been filed praying to set aside the order dated 02.03.2022 passed in Cr.M.P.No.143 of 2022 in C.C.No.5 of 2017 on the file of the learned Special Judge, Special Court under TNPID Act, Coimbatore.

2. The case of the petitioner is that the petitioner is arrayed as A-3 in the above referred calender case. The said case has been registered as against the petitioner and 2 others for the offences under Sections 120(B), 420 of IPC and Section 5 of TNPID Act. Now, the said case has been posted for examination of the defence witnesses. Ofcourse, on behalf of the prosecution, nearly 81 witnesses have been examined. In the said occasion, the petitioner herein filed a petition under Section



315 of Cr.P.C. praying to examine her as defence witness. The learned Special Judge, Special Court under TNPID Act, Coimbatore, after affording an opportunity to the respondent police, by order dated 02.03.2022 dismissed the said petition.

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3. Challenging the same, the petitioner is before this Court with the present Criminal Revision Case.

4. The learned counsel appearing for the petitioner would submit that in the alleged occurrence, there was an allegation against the petitioner and 2 others that, after receiving the advance amount, the petitioner has not executed a Sale Deed as agreed. But through the legal notice sent by the petitioner to one Sureshkumar, which was marked as Ex.D.3, they are ready to execute the Sale Deed. In this regard, it would necessary to give evidence by the petitioner herself before the trial Court. But the trial Court, without providing any sufficient opportunity to the petitioner for giving evidence, dismissed the petition filed by the petitioner. Against which, the petitioner is before this Court with the present Criminal Revision Case.

5. Per contra, the learned Government Advocate (Crl. Side) appearing for the respondent police would submit that before the trial Court after examining the prosecution side evidence, the petitioner herein filed number of petitions. Further, the document now relied on by the petitioner viz. Ex.D.3 has already been exhibited through P.W.81 Investigating Officer. Further, the evidence in respect to the said document is not necessary and the petition mentioned petition has been presented before the trial Court, only to drag on the proceedings and not to prove her innocence.

6. Now, on considering the said submissions with the relevant records, in the impugned order passed by the learned Special Judge, Special Court under TNPID Act, Coimbatore, it has observed as follows;

"After closing of the prosecution of evidence on 05.03.2021, the petitioners/accused have filed the following application:-

- A3 filed Cr.M.P.No.1067 of 2021 under Sec.311 of Cr.P.C. to recall Pw1 to Pw72 and Pw81, which was dismissed on 19.04.2021;
- A3 filed Crl.O.P.No.7127 of 2021, which was allowed and consequently, Pw1, Pw3, Pw31, Pw55, Pw63 and Pw81 alone were recalled and cross examined;



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- A2 filed Cr.M.P.No.1830 of 2021 to send for the police station attendance record under Sec.91 of Cr.P.C. which was dismissed on 05.10.2021;
- A3 filed Cr.M.P.No.1831 of 2021 under Sec.311 of Cr.P.C. to recall Pw81, which was dismissed on 05.10.2021 and cross examined;
- Cr.M.P.No.2394 of 2021 under Sec.243 of Cr.P.C. to issue summon to witnesses viz., 1.Proprietor, Hotel Royal Park, Coimbatore; 2.Praveen and 3.S.Vinothkumar, which was dismissed on 08.12.2021;
- A2 filed Cr.M.P.No.2601 of 2021 under Sec.45 of Indian Evidence Act, which was dismissed on 08.02.2022."

7. Therefore, it shows that after closing of the prosecution side evidence, the petitioner filed number of petitions, particularly, she filed a petition in Cr.M.P.No.1067 of 2021 under Section 311 of Cr.P.C. to recall P.W.1 to P.W.72 and P.W.81, is nothing but the same is only to drag on the proceedings before the trial Court. More than that, the case was posted for defence side evidence from 28.04.2021 onwards, on 16.09.2021 A-2 examined one witness as D.W.1 and examined himself as D.W.2 on 30.09.2021. Even after giving number of opportunities and also allowing number of petitions, the petitioner is in the habit of filing numerous petitions only with an intention to prolong the proceedings.

8. In a similar situation, in a case of Md.Sayeed v. State of Jharkhand reported in 2006 CrLJ 4498, it was held that "where a number of opportunities were given to the accused to examine himself and witnesses in defence, but the accused did not examine witness in defence, his clear intention was to linger the case, the closure of the defence evidence was not in violation of Section 315 Cr.P.C."

9. Here, it is a case, the document relied on by the petitioner under Ex.D.3 is a notice issued by her was marked through the Investigating Officer. After marking the said document as exhibit, wanted to give further evidence in the said document, is unnecessary. The contents of the said document is very well proved by way of marking the same as exhibit and therefore, I am of the considered view that giving evidence in respect of the said document is unnecessary. Accordingly, this Court does not find out any infirmity in the order passed by the learned Special Judge, Special Court under TNPID Act, Coimbatore.



10. In otherwise, now, on going through the facts and circumstances of the case, being the reason that the petitioner and 2 others after defrauding the public to the tune of Rs.99,555,300/- attempted to prolong the criminal proceedings is condemnable and therefore, it would be appropriate to dismiss this petition with costs.

11. Therefore, in view of the above, the present Criminal Revision Case is dismissed, with costs of Rs.10,000/- (Rupees Ten Thousand only) payable to the District Legal Services Authority, Coimbatore, within a period of four weeks from the date of receipt of a copy of this order. Consequently, the connected Miscellaneous Petition is closed.

Sd/-
Assistant Registrar(CS II)

//True Copy//

Sub Assistant Registrar

sri
To

1. The Special Judge,
Special Court under TNPID Act,
Coimbatore.
2. The Inspector of Police,
E.O.W.-II, Coimbatore.
3. The Public Prosecutor,
High Court, Madras.

Copy to

1. The District Legal Service Authority,
Coimbatore.
2. The Section Officer,
Criminal Section,
High Court, Madras - 104.

+1cc to Mr.E.P.Senniyangiri, Advocate, S.R.No.20302

Cr1.R.C.No.377 of 2022
and Cr1.M.P.No.3863 of 2022

PMK[co]
NSK 06/04/2022