



WEB COPY



Crl.O.P.No.8488 of 2021

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 30.09.2022

CORAM

THE HON'BLE MS. JUSTICE R.N.MANJULA

Crl.O.P.No.8488 of 2021

and

Crl.MP.No.5604 of 2021

C.V.Shanmugam

... Petitioner/Accused

Vs.

State rep by

the Drugs Inspector,

Valasaravakkam Range

O/o The Asst. Director of Drugs Control

Zone-IV, Chennai -6.

... Respondent/ Complainant

Prayer:- This Criminal Original Petition filed under Section 482 of Cr.P.C.,
praying to set aside the order of the I Additional District Judge, Thiruvallur in
Crl.MP.No.409 of 2020 in S.C.No.49 of 2019 dated 05.03.2020 and to recall
PW.1 and PW.2 for further examination in the above case.

For Petitioner : No appearance

For Respondent : Mr.A.Damodaran

Additional Public Prosecutor



Crl.O.P.No.8488 of 2021

ORDER

WEB COPY This Criminal Original Petition has been preferred challenging the order of the learned Ist Additional District Judge, Thiruvallur dated 05.03.2020 made Crl.MP.409 of 2020 in SC.No.49 of 2019 and to recall PW.1 and PW.2 for further examination in the above case.

2. No representation for the petitioner. I have heard the learned Additional Public Prosecutor appearing for the respondent.

3. The petitioner is the accused in SC.No.49 of 2019 before the Court below and he has been charged for the offences under Sections 18(c) read with Condition No.3 of Form 25, 18B, 18(a)(i), 17B(d) of Drugs and Cosmetics Act, 1940 punishable under Sections 27(d) and 27(c) of the said Act.

4. During the pendency of the said case, a petition was filed by the petitioner under Section 311 of the Criminal Procedure Code to recall the witnesses namely PW.1 & PW.2 for re-examination and the said petition was dismissed by the Court below by the impugned order. Aggrieved over that, the original petition has been preferred.

5. The petitioner had filed Crl.OP.No.409 of 2020 before the Court below by stating that there are certain material points omitted to be cross examined and in the interest of justice, those witnesses should be recalled.



6. However the respondent State contested the matter by stating that the petition has been filed before the court below just to delay the proceedings.

7. From the order of the Court below, it is seen that PW.1 was examined in chief on 10.09.2019 and he was examined and cross examined in detail on 16.09.2019. It is further observed that PW.2 was examined in full on 2.11.2019. After completing the prosecution evidence, the petition has been filed just to drag on the proceedings. It is to be observed that in a case which was pending for examination of the defense side witnesses, the trial can not be completed because of the petition now filed by the petitioner. If no opportunity was given to the petitioner to cross examine the witnesses, it is understandable that the petitioner can file a petition to recall the witness. Having utilized the opportunity given to the petitioner, now a bald statement has been made that both PW.1 and PW.2 had given contradictory statements and for that purpose, PW.1 and PW.2 should be recalled for re-examination.

8. The Court below has rightly relied on the decision of the Hon'ble Supreme Court in the case of **Vinothkumar Vs. State of Punjab** reported in **2015 (3) SCC 2020** and had chosen to dismiss the petition that the petition under Section 311 of the Cr.P.C., has been filed in this case just with an intention to drag the proceedings. Since the Court below has dealt the matter in accordance with law, I do not find any reason for interference.



Crl.O.P.No.8488 of 2021

R.N.MANJULA, J.

RS/jrs

WEB COPY

Accordingly this Criminal Original Petition is dismissed. The order of the Ist Additional District Judge, Thiruvallur dated 05.03.2020 made Crl.MP.409 of 2020 in SC.No.49 of 2019 is confirmed. Consequently, connected miscellaneous petition is also dismissed.

30.09.2022

Speaking/Non-speaking
Index : Yes/No

RS/jrs

To

1. The I Additional District Court, Thiruvallur.
2. The Drugs Inspector, Valasaravakkam Range
O/o The Asst. Director of Drugs Control
Zone-IV, Chennai -6.
3. The Public Prosecutor,
High Court of Madras.

Crl.O.P.No.8488 of 2021
and
Crl.MP.No.5604 of 2021