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Crl.O.P.No.24570 of 2022

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 11.10.2022

CORAM

THE HONOURABLE MR.JUSTICE V.SIVAGNANAM

Crl.O.P.No.24570 of 2022

and

Crl.M.P.No.15431 of 2022

Ravikumar

...

Petitioner

/vs/

State, represented by
the Sub Inspector of Police,
Nallur Police Station,
Tiruppur District.
Crime No.733 of 2022.

...

Respondent

Prayer : Criminal Original Petition has been filed under Section 482 of Criminal Procedure Code to call for the records in Crl.M.P.No.8262 of 2022 in C.C.No.308 of 2020 on the file of the learned Judicial Magistrate No.4, Tiruppur and set aside the order dated 05.09.2022 made in Crl.M.P.No.8262 of 2022 in C.C.No.308 of 2020 and direct the learned Magistrate to permit the petitioner for further cross examine witnesses Pws 1 to 4.

For Petitioner

...

Mr.T.Shanmugarajeswaran

For Respondent

...

Mr.S.Santhosh
Govt.Advocate (Crl.side)



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ORDER

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This criminal original petition has been filed to call for the records in Crl.M.P.No.8262 of 2022 in C.C.No.308 of 2020 on the file of the learned Judicial Magistrate No.4, Tiruppur and set aside the same and direct the learned Magistrate to permit the petitioner for further cross examine the witnesses PWs 1 to 4.

2.The learned counsel for the petitioner submitted that the petitioner is an accused in C.C.No.308 of 2020. In this case, prosecution examined four witnesses PW1 to PW4 on 20.07.2022. Though the prosecution witnesses have been cross-examined, at the time of the cross examination, some documents related to the case were not available and misplaced by the counsel. Therefore, he seeks one more chance for further cross-examination by filing the petition under Section 311 Cr.P.C, which was dismissed by the trial Court on 05.09.2022. Now, it is under challenge.

3.The learned Government Advocate (Crl.side) for respondent submitted that PW1 to PW4 were cross examined by the defence counsel on that date i.e. on 20.07.2022. Now, seeking further cross-examination



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can not be substantiated with the reason that the documents are not available, thus cannot be accepted. Further, the case is posted on 27.10.2022 for examination of further witnesses and Investigating Officer. Under these circumstances, it is not proper to recall the prosecution witnesses. If recalled, the mahazer witnesses will turn hostile, it will affect the prosecution case. Hence, pleaded to dismiss the petition.

4.I have considered the submission made by the learned counsel for the petitioner as well as the submission made by the learned Govt.Advocate (Crl.side) for the respondent.

5.On perusal of the records, it is seen that the petitioner is an accused in C.C.No.308 of 2020 on the file of the Judicial Magistrate No.IV, Thiruppur. The petitioner has been prosecuted by the respondent police for having committed an offence punishable under Section 380 IPC. The prosecution has examined four witnesses so far PW1 to PW4 as on 20.07.2022 and the petitioner has also cross-examined the witnesses. Now, the present petition has filed for recalling the abovesaid four witnesses for the purpose of further cross-examination relating to some documents.



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Considering the offence punishable under Section 380 IPC, the mahazer document and the other documents, which are available with the police, and PW1 is the complainant, PW2 is hearsay witness, PW3 & PW4 are the witnesses to the confession, Mahazer and Seizure, recalling the witnesses a second time without any sufficient reason will affect the prosecution case. The petitioner/accused had a chance to explain his position during questioning of 313 Cr.P.C and also while cross-examining the Investigating Officer. Therefore, I find no reason to interfere with the order passed by the trial Court in Crl.M.P.No.8262 of 2022 in C.C.No.308 of 2020 dated 05.09.2022. Accordingly, the criminal original petition is dismissed. Consequently, the connected miscellaneous petition is closed.

Index : Yes/No
Internet: Yes/No
sms

11.10.2022

To
The Sub Inspector of Police
Nallur Police Station,
Tiruppur District.

V.SIVAGNANAM,J.



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