



IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 11.01.2022

CORAM:

THE HON'BLE MR.JUSTICE M.NIRMAL KUMAR

CRL.O.P.No.25149 of 2021
and
Crl.M.P.No.13896 of 2021

Ganesan @ Military Ganesan

... Petitioner

Versus

State represented by its
Inspector of Police
CBCID, Namakkal
(Pallipalayam Police Station
Crime No.310/2010)

... Respondent

PRAYER: Criminal Original Petition filed under Section 482 of the Code of Criminal Procedure, to call for the records in Crl.M.P.No.1276 of 2021 in S.C.No.69 of 2012 on the file of the Court of Sessions (Fast Track Mahila) Judge, Namakkal, dated 03.12.2021 and set aside the same.

For Petitioner : Mr.R.Karthikeyan

For Respondent : Mr.R.VinothRaja
Government Advocate (Crl.Side)

ORDER

This Criminal Original Petition has been filed to call for the records in Crl.M.P.No.1276 of 2021 in S.C.No.69 of 2012 on the file of the Court of Sessions (Fast Track Mahila) Judge, Namakkal, dated 03.12.2021 and set aside the same.

2. The petitioner/A4 in S.C.No.69 of 2012, who is facing trial, for the offence under Sections 120B, 148, 341, 302 r/w 149 of IPC, filed a petition under Sections 313 (1) (b) and 233 of Cr.P.C., seeking death register and history record of the deceased from the District Medical Officer, Erode and Pallipalayam Police Station, respectively and the same was



dismissed, as against which, the present petition has been filed.

3. The contention of the petitioner is that the petitioner was examined under Section 313 of Cr.P.C., on 10.03.2021. Thereafter, he filed a similar petition in CrI.M.P.No.357 of 2021 seeking the documents mentioned above, which came to be dismissed by the trial Court by the order dated 05.08.2021. Against which, the petitioner had approached this Court in CrI.O.P.No.6013 of 2021 and the same was dismissed.

4. Subsequently, the petitioner filed an application in CrI.M.P.No.1876 of 2021 for issuance of summons to the District Medical Officer, Erode, Government Hospital to adduce evidence and mark the documents, from the Inspector of Police, Pallipalayam Police Station, and the trial Court by the order dated 03.12.2021, dismissed the same stating that a similar prayer in CrI.M.P.No.357 of 2021 was already dismissed. The trial Court failed to look into the fact that the present petition filed under different provision though the relief is one and the same. The reasoning given by the trial Court is not proper. The another reasoning of delay is also not proper since though this case is pending from the year 2012, the first witness was examined only on 21.11.2019 and the last witness was examined on 22.02.2021 and cross examination was completed on 05.03.2021 and Section 313 of Cr.P.C., was completed on 10.03.2021 with a delay, only at the instance of the prosecution in not producing the witnesses at the earliest. The petitioner sought the said documents under the RTI Act, but the same were rejected stating that since the petitioner was a third party, he has to approach the trial Court. Hence, the present petition.

5. The learned Government Advocate (CrI.Side) submits that for the same prayer, the petitioner earlier filed CrI.M.P.No.357 of 2021 which was dismissed by the trial Court on 03.12.2021, which is a well considered order. The petitioner/A4 is filing one petition after other only to delay the trial. Now, the case is at the stage of arguments of the accused. Further, the petitioner's prayer was already considered and dismissed and challenging the same, the petitioner cannot file one petition after another for the same prayer. Hence, he strongly opposed this petition.

6. Considering the submissions and on perusal of materials, it is seen that the prayer sought for by the petitioner in the present petition is the same as that of the earlier petition in CrI.M.P.No.357 of 2021 and on dismissal of the same, the petitioner approached this Court by filing CrI.O.P.No.6013 of 2021, which was also dismissed.

7. In view of the same, this Court is not inclined to



entertain this petition. Accordingly, this Criminal Original Petition is dismissed. Consequently, connected Miscellaneous Petition is closed.

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Sd/-
Assistant Registrar (CS-III)

//True Copy//

Sub Assistant Registrar

dna

To

1. The Sessions Judge,
(Fast Track Mahila Court),
Namakkal.
2. The Inspector of Police,
CBCID, Namakkal
(Pallipalayam Police Station
Crime No.310/2010)
3. The Public Prosecutor,
High Court, Madras.

+1cc to Mr.R.Karthikeyan, Advocate, S.R.No.2311

CRL.O.P.No.25149 of 2021
and
Crl.M.P.No.13896 of 2021

PMK (CO)
SU(31/01/2022)