



CRL.O.P.No.27186 of 2022

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 10.11.2022

CORAM:

THE HON'BLE MR.JUSTICE M.NIRMAL KUMAR

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S.Srinivasan

... Petitioner

Versus

1. The State rep.by
The Inspector of Police,
CBI/SCB, Chennai.
2. MIs.AGK Packers
SIPCOT
Industrial Complex
Pudukottai
Rep.by A2 Managing Partner & A3 - partner
3. T.Kumararaj
4. T. Ashokan
5. V. Anandan
6. R. Ramachandran
7. T.Mani Shankar

... Respondents



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PRAYER: Criminal Original Petition filed under Section 482 of the Code of Criminal Procedure, to set aside the order passed in Crl.MP.No.29753 of 2022 dated 23.09.2022 in CC.No.433 of 2015 passed by the learned Additional Chief Metropolitan Magistrate, Egmore, Chennai.

For Petitioner : Mr.R.Ganesan
For Respondents : Mr.K.Srinivsan
Spl.Public Prosecutor for CBI cases

ORDER

This Criminal Original Petition has been filed to set aside the order passed in Crl.MP.No.29753 of 2022 dated 23.09.2022 in CC.No.433 of 2015 by the learned Additional Chief Metropolitan Magistrate, Egmore, Chennai.

2. The learned counsel for the petitioner submitted that the petitioner/A7 filed a petition under Section 311 of Cr.P.C. before the trial Court to recall P.W.1 to P.W.14 and P.W.16 to P.W.44 and the trial Court



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by its order dated 23.09.2022 in Crl.MP.No.29753 of 2022 dismissed the petition on the finding that no merits in the petition. Aggrieved over the same, the present petition is filed. Though the petitioner has filed petition to recall several witnesses, now, he restricts his prayer only with regard to P.W.24 G.Ganesan - specimen writings of the petitioner which is marked as Ex.P.87. He further submitted that the petition filed under Section 311 of Cr.P.C can be filed at any point of time and the only essential is to arrive at just decision of the case. Petition under Section 311 of Cr.P.C can be invoked at any point of time and he also relied upon a judgment of the Apex Court in the case of *Varsha Garg Vs The State of Madhya Pradesh & others* in Crl.A.No.1021 of 2022

3. The learned Special Public Prosecutor (CBI cases) submitted that this case has been kept pending for one reason or the other by filing alternate petition by the accused and the case is of the year 2014. On the direction of the Madurai Bench of Madras High Court by order dated 10.11.2014 in Crl.OP(MD).No.19885 of 2013 the trial Court ought to have completed the case within a period of 18 months. Thereafter



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periodically one petition or the other have been filed by the accused. Earlier, the petitioner had filed several petitions to recall P.W.15 thereafter P.W.45 Investigation Officer and the trial Court had permitted the same and the petitioner also recalled the witnesses. This had happened on 27.12.2021 and on 17.05.2022. Now belatedly he has filed this petition to recall P.W.1 to P.W.44 except P.W.15. In view of the same, the petition recalling P.W.24 would serve no purpose rather only add further delay. The case has been posted for recording 313 statement tomorrow, hence he strongly objected for allowing this petition.

4. Heard both sides and perused the materials available on record.

5. This Court had occasion to pursue the cross examination made by this petitioner on the Investigating Officer PW45 and in the cross examination, it is seen that no question has been put with regard to



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P.W.24 or Ex.P.87 and thereafter filed this petition without any materials.

This Court is not inclined to entertain this petition as no prejudice would be caused to the petitioner herein.

6. Accordingly, the criminal original petition stands dismissed.

10.11.2022

Index : Yes/No
Speaking/Non Speaking order
dpq



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M.NIRMAL KUMAR, J.

dpq

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