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CrI.O.P.No.1389 of 2023

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 24.01.2023

CORAM

THE HON'BLE Mr. JUSTICE G.CHANDRASEKHARAN

CrI.O.P.No.1389 of 2023

and

CrI.M.P.No.793 of 2023

Dhamodhiran @ Sankar

...Petitioner

Vs.

The State represented by the
Inspector of Police,
Kurisilapet Police Station,
Thirupathur District.
(Crime No.157 of 2016)

...Respondent

PRAYER: Criminal Original Petition is filed under Section 482 of the Code of Criminal Procedure, to set aside the order passed by the learned Judicial Magistrate, No.II, Thiruppathur, Thiruppathur District in CrI.M.P.No.6830 of 2022 in C.C.No.46 of 2017 dated 27.10.2022.

For Petitioner : Mr.E.Kannadasan

For Respondent : Mr.S.Santhosh
Government Advocate (Criminal side)



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ORDER

This Criminal Original Petition has been filed to set aside the order passed by the learned Judicial Magistrate, No.II, Thiruppathur, Thiruppathur District in Crl.M.P.No.6830 of 2022 in C.C.No.46 of 2017 dated 27.10.2022.

2. Learned counsel for the petitioner submitted that, the petitioner filed a petition seeking recalling of PW7 for asking certain questions. However, learned trial Judge dismissed the petition.

3. Challenging the dismissal order, this petition is filed.

4. Learned Government Advocate (Criminal Side) submitted that, PW7 is a Doctor and she was already cross examined. Learned trial Judge dismissed the petition, for the reason that, no specific reason was given for recalling of PW7. That apart, PW7 is serving in a place which is 320 kms away from the Court. Thus, he prays for dismissal of this petition.

5. Considered the submissions and perused the records.



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6. The reading of the Order dated 27.10.2022 passed by the learned trial Judge shows that, PW7 who is a Doctor, was already cross examined and case was now pending for defense side evidence. At that point of time, the petition for recalling of PW7 was filed for asking certain questions, which was omitted to be asked earlier. It is observed that, PW7 is serving at a place, which is 320 kms away from the Court. The case was pending for seven years. Finding that the petition was filed only to drag the proceedings, the petition was dismissed by the learned trial Judge.

7. On going through the Order of learned Judicial Magistrate, No.II, Thiruppathur, this Court is of the view that, when PW7 was already cross examined and no specific and justifiable reasons are given by the petitioner, for recalling of PW7 again for further cross examination, this Court is of the view that, the dismissal of the petition filed for recalling is just and appropriate. It has to be borne in mind that, the case is pending for more than seven years.

8. In such circumstances, this Court confirms the Order of the learned



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Judicial Magistrate, No.II, Thiruppathur, Thiruppathur District in

CrI.M.P.No.6830 of 2022 in C.C.No.46 of 2017 dated 27.10.2022.

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

24.01.2023

gd

Index:Yes/No

Speaking Order: Yes/No

To

1.The Judicial Magistrate, No.II,
Thiruppathur,
Thirupathur District

2.The Public Prosecutor
High Court of Madras.



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G.CHANDRASEKHARAN.J.,

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