



Crl.OP.No.6106 of 2023

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 17.03.2023

CORAM

THE HONOURABLE MR. JUSTICE G.CHANDRASEKHARAN

Crl.O.P.No.6106 of 2023

and

Crl.M.P.No.3827 of 2023

Pandian

... Petitioner

Vs.

Lakshathipathi

...Respondent

PRAYER: This Criminal Original Petition filed under Section 482 of Cr.P.C., to set-aside the order dated 27.02.2023 passed in Crl.M.P.No.656 of 2023 in C.C.No.11 of 2021 on the file of the Judicial Magistrate, (FTC), (Magisterial Level), Kallakurichi and permit the petitioner to further Cross Examine the witnesses PW1.

For Petitioner

: Mr. S.Silambuselvan

ORDER

This Criminal Original Petition has been filed to set-aside the order dated 27.02.2023 passed in Crl.M.P.No.656 of 2023 in C.C.No.11 of 2021 on the file of the Judicial Magistrate, (FTC), (Magisterial Level), Kallakurichi and permit the petitioner to further Cross Examine the witnesses *PW1*.



Crl.OP.No.6106 of 2023

2. It is the submission of the learned counsel for the petitioner that, petitioner filed Crl.M.P.No.656 of 2023 under Section 311 of Cr.P.C for recalling *PW1* for further cross examination for the reason that, certain important questions have been omitted to be asked. However, learned Magistrate, without considering the genuineness in the petitioner's prayer, dismissed the petition. Challenging the dismissal order, present petition is filed.

3. Considered the rival submissions and perused the records. This Court on going through the order passed by the learned Judicial Magistrate, Fast Track Court (Magisterial level), Kallakurichi in Crl.M.P.No.656 of 2023, finds that, *PW1* was examined in chief on 06.05.2022. Petitioner was granted time for cross-examination of *PW1* from 20.05.2022 to 08.07.2022. Since, petitioner failed to avail the opportunity, evidence of *PW1* was closed. Thereafter, *PW2* was examined on 14.09.2022 and the petitioner was questioned under Section 313(1)(b) of Cr.P.C., Then, the matter was posted for defence evidence from 02.11.2022 to 22.11.2022. But the petitioner failed to produce the evidence and therefore, defence evidence was closed. Thereafter, mater was posted for arguments on 02.12.2022 and 06.12.2022. On 06.12.2022, petitioner filed petition under Section 311 of Cr.P.C., to reopen the complainant side



Crl.OP.No.6106 of 2023

evidence and to recall *PW1* and the same was taken on file as Crl.M.P.No.3496 of 2022. The petition was allowed on payment of costs of Rs.3,000/-. *PW1* was cross examined by the petitioner in detail on 14.12.2022. Again, petitioner filed petition to re-open the defence evidence and the same was allowed on 06.01.2023. Petitioner examined three witnesses on 06.01.2023. Then, petitioner filed petition under Section 315 of Cr.P.C., to examine himself and that was allowed. When the matter was pending for examination of the petitioner, he did not come forward to give evidence. Therefore, defence evidence was closed. Now, when the matter is pending for argument of the petitioner, present petition is filed. The learned Judge finding that, *PW1* was extensively cross-examined and that the petitioner filed the recall petition with a *malafide* intention to drag on the proceedings, dismissed the petition on 27.02.2023.

4. On going through the reasons of the learned Judicial Magistrate, Fast Track Court (Magisterial Level), Kallakurichi and also the fact that, *PW1* was already cross-examined in detail and that there is no specific mention in the petition as to the reasons for recall, this Court finds that, there is no illegality in dismissing the petition for recall in Crl.M.P.No.656 of 2023.



Crl.OP.No.6106 of 2023

5. In that view of the matter, this Criminal Original petition is dismissed.

However, the learned Judicial Magistrate, Fast Track Court (Magisterial Level), Kallakurichi is directed to dispose the case within a period of one month from the date of receipt of copy of the order. Consequently, connected miscellaneous petition is closed.

17.03.2023

Internet : Yes / No

Index : Yes / No

Speaking / Non Speaking order

Sma

To

Judicial Magistrate, Fast Track Court (Magisterial Level), Kallakurichi



WEB COPY



Crl.OP.No.6106 of 2023

G.CHANDRASEKHARAN,J.

Sma

Crl.O.P.No.6106 of 2023

1+7.03.2023