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Crl.O.P.No.22735 of 2023



IN THE HIGH COURT OF JUDICATURE AT MADRAS

Dated : 04.10.2023

CORAM :

THE HONOURABLE Dr. JUSTICE G.JAYACHANDRAN

Crl.O.P.No.22735 of 2023
and Crl.M.P. No.15907 of 2023

Balaji @ Arasattai Balaji

... Petitioner

-VS-

The State Rep by
Inspector of Police,
H-6, R.K.Nagar Police Station,
Korukupettai, Chennai -21.

...Respondent

PRAYER : Criminal Original Petition has been filed under Section 482 of Criminal Procedure Code, to set aside the order dated 20.09.2023 in Crl.M.P.No.23810 of 2023 in S.C. No.332 of 2023 on the file of the I Additional Sessions Judge, City Civil Court Judge at Chennai and allow the said petition.

For Petitioner : Mr.G.M.Gokul Ram

For Respondent : Mr.S.Udaya Kumar,
Government Advocate (Crl.Side)

ORDER



After examination of the Investigation Officer, the petitioner who is the first accused in S.C. No.332 of 2021 has resorted to Section 311 Cr.P.C to recall P.W.1, P.W.2, P.W.3, P.W.5 and P.W.12 for further cross examination. The trial Court after hearing the petitioner and the learned Additional Public Prosecutor has dismissed the petition stating that these witnesses were already examined in detail. Change of the counsel cannot be a reason for recall the petition and no other valid reason was adduced by the petitioner to recall the witnesses.

2. The learned Counsel appearing for the petitioner submitted that P.W.14, Investigation Officer had introduced new facts not spoken by witnesses who are proposed to be recalled and therefore, it is essential to arrive a proper decision to recall these witnesses and be subjected to cross examination.

3. The docket order of the trial Court indicates that five accused are facing trial in this case and examination of witnesses commenced on 15.05.2023, till then one after another accused were absconding, NBW and PT warrant issued and secured. Even after commencement of the trial A4 was arrested in a connected case and produced under PT warrant. On 22.06.2023, L.W.14, L.W.15 and L.W.16 were present but all the five accused remained absent, there was no representation and therefore NBW was issued. When the



matter called on 26.06.2023, A5 surrendered and NBW was recalled. A2 and A3 were arrested and produced after execution of NBW.

4. After few adjournments, the accused have changed their counsel and engaged a new counsel, while P.W.14, Investigation Officer was in the witness box. Thereafter, application for recall of P.W.1, P.W.2, P.W.3, P.W5 and P.W.12 was filed on 20.09.2023 stating that these witnesses were not cross examined. The trial Court after taking note of the fact that in a Criminal trial, witnesses cannot be recalled at the drop of a hat and should satisfy the requirement stated under Section 311 of the Cr.P.C which is absent in the present application and dismissed the request to recall witnesses.

5. The records fully supports the reasoning and the decision of the trial Court declining the request to recall the witnesses. This Court finds no error in the order of the trial Court. Hence this petition is dismissed. Consequently, connected Miscellaneous Petition is also dismissed.

04.10.2023

Internet : Yes/No
Index : Yes/No
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Dr.G.JAYACHANDRAN, J.

rkp

To

1. The I Additional Sessions Judge,
City Civil Court at Chennai
2. The Inspector of Police,
H-6, R.K.Nagar Police Station,
Korukupettai, Chennai -21.
3. The Public Prosecutor,
Madras High Court, Madras.

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