



WEB COPY

Crl.O.P.No.25222 of 2023



IN THE HIGH COURT OF JUDICATURE AT MADRAS

Dated : 15.11.2023

CORAM :

THE HONOURABLE Dr. JUSTICE G.JAYACHANDRAN

Crl.O.P.No.25222 of 2023

J.Leela

... Petitioner

-VS-

R.Vadivelu

...Respondent

PRAYER : Criminal Original Petition has been filed under Section 482 of Criminal Procedure Code, praying to call for records in Crl.M.P.No.1242 of 2023 in S.T.C.No.6887 of 2015 on the file of the Judicial Magistrate-I, Tambaram and set aside the order passed in Crl.M.P.No.1242 of 2023 dated 06.10.2023.

For Petitioner

: Mr.M.Kosalaraman

ORDER

This petition is filed against the order passed in Crl.M.P. No.1242 of 2023 in STC. No.6887 of 2015 dated 06.10.2023 to recall P.W.1, since the Application before the trial Court been rejected.



2. A perusal of the order passed by the trial Court rejecting the request to recall P.W.1 who was examined in chief on 28.12.2015 and the matter is adjourned subsequently on various dates but cross examination not completed and closed. Thereafter, the petitioner has filed an Application to recall P.W.1 in Crl.M.P. No.6207 of 2017, the same was allowed, PW1 was recalled and cross examined by the petitioner herein.

3. Not being satisfied, again the petition for recall was filed and allowed on 15.06.2019 in Crl.MP. No.6010 of 2018. P.W1 was cross examined on 17.08.2019. Thereafter, on the subsequent hearings when the matter was adjourned for continuation of cross, the petitioner failed to cross examine P.W.1 and therefore, evidence of P.W.1 was closed. Then again, for the 3rd time, Application in Crl.MP. No.2575 of 2022 was filed, liberty was given to the petitioner to cross examine P.W.1, several hearings the case was adjourned to cross examine PW1, the petitioner did not avail the opportunities and thereafter, the trial Court has closed the cross examination of P.W.1 on 22.07.2023.

4. Having availed the right of recalling the witness thrice but did not complete the cross examination and dragging the matter from 2017 to 2023, without completing the cross examination of P.W.1, the petitioner tried his luck again before the trial Court in Crl.M.P. No.1242 of 2023 to recall P.W.1, this



time Court has recorded the past conduct of the three Applications filed under Section 311 of Cr.P.C and non utilization of opportunity given, had dismissed the petition. Recording, the attitude of the petitioner and perusal of notes paper, dragging on the case despite the case been reserved for arguments as early as 2019. Taking into consideration the age of the case and time delayed for cross examination, the petition to recall the P.W.1 for the 4th time was dismissed by the trial Court.

5. This Court records its appreciation the manner in which, the trial Court decided the petition and for giving quietus to the unscrupulous attitude of the accused/petitioner. This petition is clear abuse of process of law and it deserves to be dismissed with costs.

6. Accordingly, this petition is dismissed with a cost of Rs.10,000/- to be paid to the Legal Services Authority attached to the Chengalpattu District Legal Services Authority, on or before 30.11.2023.

15.11.2023

Internet : Yes/No

Index : Yes/No

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To

The Judicial Magistrate-I, Tambaram.



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Dr.G.JAYACHANDRAN, J.

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