



Crl.O.P.No.25388 of 2023

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 28.11.2023

CORAM

THE HONOURABLE DR.JUSTICE G.JAYACHANDRAN

Crl.O.P.No.25388 of 2023

and

Crl.M.P.No.17595 of 2023

Sivalingam

...Petitioner

Vs.

The State Rep by,
The Inspector of Police,
Sathanur Dam Police Station,
Thiruvannamalai

...Respondent

Prayer: Criminal Original Petition is filed under Section 482 of Criminal Procedure Code, pleased to call for the records and set aside the order made in Crl.M.P.No.588 of 2023 in S.C.No.160 of 2015 on 20.09.2023 pending on the file of the Sessions Judge, Magalir Neethimandram (Fast Track Mahila Court) at Thiruvannamalai and allow the accused to cross examine the prosecution witnesses.

For Petitioner : Mr.S.M.Nandhie Devhan

For Respondent : Mr. Leonard Arul Joseph Selvam
Government Advocate (Crl. Side)



ORDER

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Being aggrieved by the dismissal of the application filed under Section 311 of Cr.P.C to recall PW1, PW2, PW4 to PW6, PW13, PW16, PW17 for the purpose of cross examination, present petition is filed.

2. The copy of the order of the trial Court reveals that, for the occurrence alleged to have happened in the year 2010, police has completed the investigation and trial started in S.C.No.160 of 2015 in the year 2017. The parents of the deceased were examined as PW1 and PW2 as early as in the year 2018. Rest of the witnesses upto PW17, examination was completed by 28.08.2018. The trial after a break of one year again resumed on 09.11.2020 from examination of PW15. Presently, out of 23 listed witnesses, 20 witnesses been examined. At this juncture, petitioner has taken out an application under Section 311 of Cr.P.C to recall the witnesses mentioned above for the purpose of cross examination. The trial Court recording the reason that there is no ground to recall these witnesses, after a lapse of two years and petitioner/accused had not shown any interest in cross examining the witnesses when they were present before the Court on



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receipt of summons. Recording that, on 10.04.2023, PW 16 to PW18 were present and gave their testimony in chief. On that day, petitioner did not cross -examine PW 16 and PW17 and choose to Cross examine PW18 alone, now filed petition to recall these witnesses referring the judgment of **Hon'ble Supreme Court of India in Vinoth Kumar Vs. state of Punjab** reported in **(2015) 3 SCC 220**, the application for recalling the witnesses belatedly dismissed.

3. This Court on perusing the application for recalling these witnesses find that, it does not reveal any reason for not cross examining the witnesses on the day they were present and the reason for recalling them belatedly. Accordingly, this Criminal Original Petition is dismissed. Consequently, connected miscellaneous petition is closed.

28.11.2023

Index : Yes/No
Neutral Citation : Yes/No
Sma



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Dr.G.JAYACHANDRAN,J.

Sma

To:

- 1.The Inspector of Police,
Sathanur Dam Police Station,
Thiruvannamalai
2. Sessions Judge, Magalir Neethimandram
(Fast Track Mahila Court), Thiruvannamalai.
2. The Public Prosecutor,
Madras High Court.

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