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Crl.OP.No.32657 of 2022

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 04.01.2023

CORAM

THE HONOURABLE MR. JUSTICE G.CHANDRASEKHARAN

Crl.O.P.No.32657 of 2022 and
Crl.M.P.Nos.20140 & 20139 of 2022

Sadhana Medda

.. Petitioner

vs

Susheela Kavar

.. Respondent

PRAYER: This Criminal Original Petition is filed under Section 482 of Cr.P.C., to set aside the order dated 05.12.2022 passed in Crl.M.P.No.3654 of 2022 in C.C.No.1628 of 2019, on the file of the learned Metropolitan Magistrate, FTC-IV George Town at Chennai, and to recall the said petition.

For Petitioner : Mr.N.Suresh
For Respondent :

ORDER

This Criminal Original Petition has been filed to set aside the order dated 05.12.2022 passed in Crl.M.P.No.3654 of 2022 in C.C.No.1628 of 2019, on the file of the learned Metropolitan Magistrate, FTC-IV George Town at Chennai,



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and to recall the said petition.

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2.The learned counsel for the petitioner submitted that previous counsel had not properly cross-examined P.W.1. Therefore, the present counsel for the petitioner wants to ask certain questions which are relevant for proving his case during the further cross-examination of P.W.1. Therefore, petition under Section 311 Cr.P.C. was filed for recalling P.W.1 for the purpose of further cross-examination. That was dismissed by the trial court. Therefore, this petition.

3.Heard the learned counsel for the petitioner and perused the records.

4.This court on going through the order of the learned trial Judge finds that the evidence of P.W.1 was started on 30.12.2020. After three adjournments a petition was filed under Section 245 (2) on 25.03.2021 and it was allowed on the same date. Despite giving several opportunities to the petitioner, P.W.1 was not cross-examined. Therefore, the evidence of P.W.1 was closed on 12.05.2022. Thereafter, petitioner filed a petition under Section 311 Cr.P.C. and it was allowed. P.W.1 was cross-examined on 02.08.2022. This present petition



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is filed stating the reason that the new counsel for the petitioner prepared certain questions to put to P.W.1. Finding that this is not a proper and valid reason for recalling P.W.1, the learned trial Judge dismissed the petition.

5.This Court finding that examination of P.W.1 was started on 30.12.2020 and that he was cross-examined only on 02.08.2022; that petitioner deliberately not cross-examined P.W.1 inspite of giving several opportunities earlier, shows that the only intention of the petitioner is to drag the proceedings. It appears that P.W.1 was already cross-examined on 02.08.2022. Therefore, the petition now filed under Section 311 Cr.P.C stating the reason that new counsel for the petitioner prepared certain questions to be asked to P.W.1, in the considered view of the Court, is not proper and valid reason for ordering recall of P.W.1 for the purpose of further cross-examination. This Court finds that the learned trial Judge has rightly considered the petition and dismissed the petition. This Court finds no reason to interfere with the order dated 05.12.2022 in CrI.M.P.No.3654 of 2022 in C.C.No.1628 of 2019, passed by the learned Metropolitan Magistrate, FTC-IV George Town at Chennai.



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6.In this view of the matter, this Criminal Original Petition is dismissed.

Consequently, connected miscellaneous petitions are closed.

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Index : Yes / No
Speaking / Non Speaking order
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- To
- 1.The Metropolitan Magistrate,
FTC-IV George Town, Chennai
 2. The Public Prosecutor
High Court, Madras.



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G.CHANDRASEKHARAN,J.

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