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Crl.OP.No.27751 of 2023

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 12.12.2023

CORAM :

THE HONOURABLE MR. JUSTICE A.D.JAGADISH CHANDIRA

Criminal Original Petition No.27751 of 2023

R.Rajini

.. Petitioner

Versus

State represented by
The Inspector of Police
Vigilance and Anti Corruption,
Krishnagiri

.. Respondent

Criminal Original Petition is filed under Section 482 of Cr.P.C to set aside the order passed by the learned Chief Judicial Magistrate Court, Krishnagiri in Crl.M.P.No.14111 of 2023 in Spl.C.C.No.09 of 2015 dated 10.11.2023.

For Petitioner	:	Mr. P. Ezhil Nilavan
For Respondent	:	Mr. S. Udayakumar
		Government Advocate (crl.side)

ORDER

This Criminal Original Petition has been filed to set aside the order dated 10.11.2023 passed by the learned Chief Judicial Magistrate, Krishnagiri in Crl.M.P.No.14111 of 2023 in Spl.C.C.No.09 of 2015, whereby the petition filed under Section 311 Cr.P.C. seeking to recall P.W.2 to P.W.7 for further cross examination was dismissed.



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2. The learned counsel for the petitioner would submit that the petitioner is an accused in Spl. C.C. No. 09 of 2015 pending on the file of the Chief Judicial Magistrate Court, Krishnagiri. The case against the petitioner is that in the year 2015, when he was working as Village Administrative Officer, Thuppuganapalli Village, Hosur Taluk, he demanded and accepted a sum of Rs.1000/- as bribe from P.W.2 Tr. Anandha Achari, defacto complainant and pursuant to the complaint given by him a trap was laid and he was alleged to have been caught red handed while receiving the bribe on 22.01.2015.

3. The learned counsel for the petitioner submitted that though the case was taken on file in the year 2015, the respondent started to examine the witnesses only from the year 2019. He would further submit that since the erstwhile counsel, who appeared before the Trial Court, suffered ill-health, he had not properly cross examined the witnesses and thereby, the petition to recall P.W.2 to P.W.7 has been filed. However, the learned Chief Judicial Magistrate by cryptic order dismissed the petition and hence, the present petition has been filed to set aside the said order. He would further submit that in order to avail a fair trial, the petitioner has to further cross examine the witnesses.



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4. Per contra, the learned Government Advocate (crl.side) would submit that even as per the averments of the petitioner, the counsel, who appeared on behalf of him before the trial Court, had passed away during the year 2021. He would further submit that P.W.2, the defacto complainant was examined on 06.08.2019, P.W.3, shadow witness was examined on 22.10.2019, P.W.4, Inspector was examined on 25.11.2019, P.W.5, Tahsildar was examined on 07.01.2020, P.W.6, father of the defacto complainant was examined on 03.02.2020 and P.W.7 Assistant Taluk Officer, Hosur was examined on 12.10.2021. He would also submit that a detailed cross examination has been done by the counsel for the petitioner. Only in order to protract the proceedings the petition has been filed. He would further submit that the learned Trial Judge following the mandate of ***Vinoth Kumar /vs/ State of Punjab (2015(3)SCC 220*** had dismissed the application and there is no infirmity or illegality in the order passed by the Trial Judge.

5. This Court considered the matter in the light of the submissions made by the counsel on both sides and perused the materials available on records carefully.



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6. In this case, trial has commenced during the year 2019. P.W.2 to

P.W.7 have been examined in chief they were cross examined in detail.

Though the counsel for the petitioner has not furnished the copy of the deposition before this Court, the learned Government Advocate (Crl.side) had furnished the copy of the deposition regarding P.W.2 to P.W.7. This Court is able to see that detailed cross examination has been done by the petitioner and hence this Court is of the opinion that the present petition for recall has been filed only to protract the Trial. I find no merit in the petition and the same is liable to be dismissed.

7. Accordingly, this Criminal Original Petition is dismissed.

12.12.2023

Index : Yes / No

Speaking / Non-speaking

Neutral Citation : Yes / No

mrp

To

1. The Chief Judicial Magistrate Court,
Krishnagiri

2. The Inspector of Police
Vigilance and Anti Corruption,

<https://www.mhc.tn.gov.in/jedis>



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A.D.JAGADISH CHANDIRA, J.

mrp

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