



Crl.O.P.(MD)No.9761 of 2023

BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

DATED: 06.06.2023

CORAM

THE HON'BLE MR.JUSTICE K.MURALI SHANKAR

Crl.O.P.(MD)No.9761 of 2023

and

Crl.M.P.(MD)No.7820 of 2023

S.Arumugam

... Petitioner/
Sole Accused

Vs.

State through
The Inspector of Police,
Vigilance and Anti Corruption,
Sivagangai.
(Crime No.9 of 2010)

... Respondent/
Complainant

PRAYER: Criminal Original Petition filed under Section 482 of Criminal Procedure Code, to call for the records relating to the impugned order in Crl.M.P.No.18 of 2023 in Spl.C.C.No.70 of 2014 dated 21.04.2023 on the file of the learned Special Court for Trial of Cases under Prevention of Corruption Act, Sivagangai and set aside the same.

For Petitioner : Mr.N.Mohideen Basha

For Respondent : Mr.R.Meenakshi Sundaram
Additional Public Prosecutor



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ORDER

This Criminal Original Petition has been filed, invoking Section 482 Cr.P.C., seeking orders for setting aside the order of the Special Court in Crl.M.P.No.18 of 2023 in Spl.C.C.No.70 of 2014 dated 21.04.2023 dismissing the petition filed under Section 311 Cr.P.C.

2. The petitioner/sole accused is facing the case in Spl.C.C.No.70 of 2014 for the offences under Sections 7, 13(l) r/w 13(1)(d) of Prevention of Corruption Act.

3. It is evident from the records that P.W.3 was chief-examined on 05.01.2017 and subsequently, the petitioner has filed an application to recall the P.W.3 for cross-examination and the same was permitted and consequently, P.W.3 was cross-examined on 26.09.2018.

4. As rightly pointed out by the learned Additional Public Prosecutor, the petitioner has earlier filed an original petition in Crl.O.P.



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(MD)No.15280 of 2022 for setting aside the order of the Special Court in dismissing the petition filed under Section 311 Cr.P.C. to recall P.W.8, P.W.9, P.W.11, P.W.12 and P.W.13 for cross-examination. This Court, on considering the submissions made on both the sides and taking note of the fact that the said witnesses were not at all cross-examined and in order to give an opportunity to the accused to cross-examine the said witnesses, allowed the revision by setting aside the order of the Special Court on further condition that the petitioner side should cross-examine the witnesses whenever the witnesses are produced before the concerned Court.

5. The learned Additional Public Prosecutor appearing for the respondent would submit that all the said witnesses were cross-examined and after the closure of the prosecution side evidence, the case stands posted for the defence side evidence.

6. The main contention of the petitioner is that P.W.3 was cross-examined by the counsel attached to the Senior counsel appearing for the petitioner, as the Senior counsel was not available at that time and that



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since some material contradictions were omitted to be asked, the above petition came to be filed.

7. It is pertinent to note that though the petitioner has earlier filed similar original petition for setting aside the order of the Special Court in dismissing the petition filed under Section 311 Cr.P.C. with respect to some other witnesses, he has not chosen to add the present prayer for recalling the P.W.3.

8. As rightly contended by the learned Additional Public Prosecutor, P.W.3 was cross-examined as early as on 26.09.2018 and that too, at length.

9. On considering the facts and circumstances of the case and also the fact that now the case stands posted for defence side evidence, the impugned order dismissing the petition filed under Section 311 Cr.P.C. cannot be found fault with. Hence, this Court concludes that the above petition is devoid of merits and the same is liable to be dismissed.



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10. In the result, this Criminal Original Petition is dismissed.

Consequently, connected miscellaneous petition is closed.

06.06.2023

NCC : Yes / No
Index : Yes / No
Internet : Yes / No
csm

To

- 1.The Inspector of Police,
Vigilance and Anti Corruption,
Sivagangai.
- 2.The Additional Public Prosecutor,
Madurai Bench of Madras High Court,
Madurai.



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K.MURALI SHANKAR,J.

csn

Order made in
CrI.O.P.(MD)No.9761 of 2023
and
CrI.M.P.(MD)No.7820 of 2023

Dated : 06.06.2023