



Crl.O.P.(MD)No.20840 of 2022

BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

DATED: **08.02.2023**

CORAM

THE HON'BLE MR.JUSTICE K.MURALI SHANKAR

Crl.O.P.(MD)No.20840 of 2022

and

Crl.M.P.(MD)No.14509 of 2022

P.Arockiasamy

... Petitioner

Vs.

State represented by
The Inspector of Police,
Viralimalai Police Station,
Pudukkottai District.
(Crime No.381 of 2006)

... Respondent

PRAYER : Criminal Original Petition filed under Section 482 of Criminal Procedure Code, to call for the records pertaining to the order dated 07.10.2022 in Cr.M.P.No.1177 of 2022 in C.C.No.336 of 2019 on the file of the learned District Munsif cum Judicial Magistrate Court, Illuppur, and set aside the same and allow the criminal original petition.

For Petitioner : Mr.A.N.Ramanathan

For Respondent : Mr.E.Antony Sahaya Prabahar
Additional Public Prosecutor



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ORDER

This Criminal Original Petition is directed against the order passed in Cr.M.P.No.1177 of 2022 in C.C.No.336 of 2019 dated 07.10.2022, dismissing the petition filed under Section 91(2) Code of Criminal Procedure.

2. Admittedly, the petitioner is facing charge for the offence under Section 420 IPC in C.C.No.336 of 2019 on the file of the District Munsif cum Judicial Magistrate, Illuppur.

3. After completion of trial, when the case stood posted for arguments, the petitioner has filed an application under Section 91(2) Cr.P.C. seeking permission to send for the attendance register for the years 2002 and 2003 available at Panchayat Union Middle School, Pilipatti (Kotturapatti Panchayat, Viralimalai Taluk). The learned Judicial Magistrate, after enquiry, has passed the impugned order dismissing the petition.



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4. The main contention of the petitioner is that the petitioner was very much available in the School in the days mentioned by the prosecution and in order to prove the plea of alibi, the documents now sought to be summoned are very much necessary.

5. Admittedly, FIR was registered in the year 2006 in Crime No. 381 of 2006, that after filing of the charge sheet, the case was taken on file in C.C.No.103 of 2007 on the file of the learned District Munsif cum Judicial Magistrate, Keeranur and that subsequently, after constitution of the new Court of the District Munsif cum Judicial Magistrate, Illuppur, the case was transferred and the same was taken on file in C.C.No.336 of 2019 on the file of the District Munsif cum Judicial Magistrate, Illuppur.

6. As rightly pointed out by the learned Additional Public Prosecutor, the learned Judicial Magistrate has observed that the trial was commenced on 04.05.2017 and the witnesses P.W.1 to P.W.7 were examined till 12.07.2017, the petitioner without raising the plea of alibi, has filed the above petition. The learned Judicial Magistrate has further observed that the petitioner, despite of having sufficient opportunity, he



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has not taken any steps for the past sixteen years to produce/sent for the records to substantiate the Plea of Alibi and when the case stands posted for arguments, the above petition came to be filed.

7. Considering the above facts and circumstances, the decision of the learned Judicial Magistrate dismissing the petition cannot be found fault with.

8. As rightly pointed out by the learned Additional Public Prosecutor, the above petition came to be filed only to protract the proceedings further and hence, this Court concludes that the above petition is devoid of merits and the same is liable to be dismissed. Accordingly, this Criminal Original Petition stands dismissed. Consequently, connected Miscellaneous Petition is closed.

08.02.2023

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



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To

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- 1.The Inspector of Police,
Viralimalai Police Station,
Pudukkottai District.
- 2.The Additional Public Prosecutor,
Madurai Bench of Madras High Court,
Madurai.



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K.MURALI SHANKAR,J.

csn

Order made in
Crl.O.P.(MD)No.20840 of 2022
and
Crl.M.P.(MD)No.14509 of 2022

Dated: 08.02.2023