



Crl.O.P.No.6550 of 2024

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 18.03.2024

CORAM

THE HON'BLE MR.JUSTICE A.D.JAGADISH CHANDIRA

Crl.O.P.No.6550 of 2024
and Crl.M.P.No.4814 of 2024

Dr.Kalaimani

... Petitioner

Vs.

The State represented by,
The Deputy Superintendent of Police,
Vigilance and Anti-Corruption,
Salem Detachment,
Salem.

... Respondent

PRAYER : Criminal Original Petition filed under Section 482 of Criminal Procedure Code, pleased to set aside the order dated 27.02.2024 made in Crl.M.P.No.06 of 2024 in Spl.C.C.No.67 of 2014 on the file of the learned Special Judge, Special Court for Trial of Cases under Prevention of Corruption Act, Salem.

For Petitioner : Ms.S.Yogalakshmi
for Mr.M.Guruprasad

For Respondent : Mr.S.Santhosh
Government Advocate (Criminal Side)



Crl.O.P.No.6550 of 2024

ORDER

WEB COPY

The Criminal Original Petition has been filed seeking to set aside the order dated 27.02.2024 made in Crl.M.P.No.06 of 2024 in Spl.C.C.No.67 of 2014, pending on the file of the learned Special Judge, Special Court for Trial of Cases under Prevention of Corruption Act, Salem.

2. Learned counsel for the petitioner submitted that the petitioner a Government Doctor, aged about 73 years, is a Heart Patient and the charges against him is for having demanded illegal gratification for performing a surgery. She further submitted that due to the death of the earlier counsel and the bad health condition of the petitioner, the prosecution witnesses were not properly cross examined. She also submitted that PW16 is not at all cross examined and others have been partially cross examined, therefore, the petitioner has filed an application under Section 311 Cr.P.C., seeking to recall PW2, PW3, PW16, PW20 and to examine LW4, who was not examined by the prosecution, whereas, the trial Court, without looking into the necessity for recalling those witnesses, had dismissed the application. She further submitted that the cross examination of those witnesses is essential for arriving at a just decision of the case and if the



Crl.O.P.No.6550 of 2024

witnesses are not recalled and the petitioner is not permitted to cross examine them, it would amount to denial of fair trial to the petitioner, which would cause grave prejudice to him. Thereby, she would seek to set aside the order passed by the trial Court in Crl.M.P.No.06 of 2024 dated 27.02.2024 and permit to recall the witnesses.

3. Per contra, the learned Government Advocate (Criminal Side) submitted that the case is of the year 2007 and the final report was filed in the year 2008 and the trial has been commenced during 2016. He further submitted that PW2 was examined in chief on 06.01.2016 and was cross examined on 03.03.2016, PW3 was examined in chief on 08.09.2016 and was cross examined on 08.03.2017, the Trap Laying Officer/PW20 was examined in chief on 05.11.2019 and he was extensively cross examined on 12.11.2019 and PW16 was examined in chief on 27.03.2019, however, the counsel for the petitioner has not taken any steps to recall PW16 for cross examination. Further, the case was posted for questioning under Section 313(1)(b) of Cr.P.C. on 02.08.2022, thereafter, posted for prosecution side arguments on 09.01.2024 and after the completion of arguments, the accused had argued the matter on 06.02.2024 and now the case



Crl.O.P.No.6550 of 2024

stands posted on 21.03.2024 for pronouncing judgment. He also submitted that only in order to delay the pronouncement of judgment, the petition has been filed.

4. He further submitted that the Hon'ble Apex Court in various judgments had held that the change of counsel is not a valid ground to recall the prosecution witnesses for further cross examination. He also submitted that all the witnesses have been extensively cross examined and some of them have been earlier recalled and cross examined. No valid grounds have been made out to show that the cross examination of witnesses is essential for arriving at a just decision. He further submitted that the conduct of the petitioner would show that the petition has been filed only for the purpose of delaying the trial. Hence he sought for dismissal of the petition.

5. Heard the learned counsel for the petitioner and the learned Government Advocate (Crl.Side) for the respondent Police and perused the materials available on record.

6. A perusal of records shows that all the witnesses other than PW16 have



Crl.O.P.No.6550 of 2024

been extensively and exhaustively cross examined by the counsel for the petitioner. Though, PW16 has been examined on 27.03.2019, the petitioner had not taken any steps to recall him till the fag end of trial. The petitioner is not an ordinary person, he is a Doctor by profession. No valid grounds have been raised by the petitioner to show that the cross examination of witnesses is essential in arriving at a just decision of the case. Therefore, this Court is of the opinion that the petition has been filed only with a oblique motive to delay the pronouncement of judgment and the trial Court had rightly dismissed the petition. Thereby, this Court does not find any infirmity or illegality or perversity in the order passed by the trial Court.

7. Accordingly, the Criminal Original Petition stands dismissed. Consequently, the connected miscellaneous petition is also closed.

18.03.2024

Index : Yes / No
Speaking / Non-speaking
Neutral Citation : Yes / No
ham

A.D.JAGADISH CHANDIRA, J.



WEB COPY



Crl.O.P.No.6550 of 2024

ham.

To

1. The Special Judge,
Special Court for Trial of Cases under Prevention of Corruption Act,
Salem.
2. The Deputy Superintendent of Police,
Vigilance and Anti-Corruption,
Salem Detachment, Salem.
3. The Public Prosecutor,
High Court of Madras.

***Crl.O.P.No.6550 of 2024
and Crl.M.P.No.4814 of 2024***

18.03.2024