



WEB COPY



CrI.O.P.No.12638 of 2024

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 24.05.2024

CORAM:

THE HONOURABLE MR. JUSTICE C. SARAVANAN

CrI.O.P.No.12638 of 2024

K.Kumaresh Babu

.. Petitioner

Versus

R.Raja

.. Respondent

PRAYER: Criminal Original Petition filed under Section 482 Cr.P.C., to set aside the order dated 13.03.2024 passed in CrI.M.P.No.1304 of 2024 in S.T.C.No.199 of 2021 on the file of Learned Judicial Magistrate Fast Track Court No.II, Erode.

For Petitioner : Mr.M.Vijaya Ragavan

For Respondent : Mr.S.Vinoth Kumar
Government Advocate (CrI.Side)

ORDER

The petitioner has challenged the impugned order passed by the Judicial Magistrate Fast Track Court No.II, Erode on 13.03.2024 in CrI.M.P.No.1304 of 2024 in S.T.C.No.199 of 2021 rejecting the petition filed by the petitioner for re-opening the evidence to cross examine the



CrI.O.P.No.12638 of 2024

complainant.

WEB COPY

2. Heard both sides and perused the materials placed on record.

3. Paragraph 6 of the impugned order reads as follows:

“On careful perusal of records this Court finds that on allowing of petition w/s. 311 of Cr.P.C., filed by the petitioner, the respondent has been recalled on 22.06.2022 for the purpose of cross examination and on said date also the complainant was present, but defence side not ready to conduct cross examination. Further, subsequent to that the complainant very much available to submit himself for cross examination on following dates i.e., 02.11.1022, 04.01.2023, 14.03.2023, 19.04.2023, 19.06.2023, 19.07.2023, 14.08.2023, 18.08.2023, 04.10.2023, 01.02.2023. but the respondent has not ready for cross examining the complainant. Further, this case pending in the stage of cross examination for nearly 19 months and all these days the petitioner has not chosen to conduct cross examination and this court has passed several conditional orders in the above mentioned days to make the petitioner to complete the cross examinations and despite that conditional order the petitioner has not obey the said orders passed by this court and continuously is at default. Hence, on considering the long pendency of this case, this court closed the cross opportunity to the petitioner and adjourned the case for both side argument. Hence, the accused came with this application.”



Crl.O.P.No.12638 of 2024

WEB COPY

4. It is noticed that more than 19 months have lapsed, since, the case was listed for cross-examination of the complainant. Further, the petitioner did not choose to cross-examine the complainant when he was present before the Court. Hence, the evidence was closed and case was listed for arguments. This Court is of the view that there is no merits in the challenge to the impugned order as the petition filed by the petitioner/sole accused presence in S.T.C.No.199 of 2021 was intended to delay the proceedings.

5. Under these circumstances, this petition stands dismissed.

24.05.2024

dhk

Internet: Yes

Index: Yes/No

Speaking/Non speaking order

C. SARAVANAN, J.
dhk

To



Crl.O.P.No.12638 of 2024

WEB COPY

1.The Judicial Magistrate,
Fast Track Court No.II, Erode.

2.The Public Prosecutor,
High Court, Madras.

Crl.O.P.No.12638 of 2024

24.05.2024