



WEB COPY



Crl.O.P.No.10945 of 2024

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 03.06.2024

CORAM

THE HONOURABLE DR.JUSTICE G.JAYACHANDRAN

Crl.O.P.No.10945 of 2024
and Crl.M.P.No.7490 of 2024

S.Gajashree

... Petitioner

Vs.

The State rep.by
The Inspector of Police,
EOW, Chennai

... Respondent

Prayer: Criminal Original Petition is filed under Section 482 of Criminal Procedure Code, pleaded to call for records in Crl.M.P.No.10745 of 2024 in C.C.No.4218 of 2021 on the file of the Chief Metropolitan Magistrate, Egmore, Chennai dated 26.02.2024 and to set aside the same.

For Petitioner : Mr.K.Chandrakumar

For Respondent : Mr.K.M.D.Muhilan
Government Advocate (Crl.Side)

ORDER

This Criminal Original Petition is filed to recall PW.1 for cross examination.

2. The learned Government Advocate (Crl.Side) appearing for the respondent police submits that the trial Court has rightly dismissed



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the petition, since it is the second recall petition filed under Section 311

Cr.P.C.

3. As per the records, the witness PW.1 was examined on 07.02.2023, but on that day the said witness was not cross examined. Later he filed a petition to recall the witness, the same was allowed and the witness was cross examined on 14.06.2023. Thereafter, the case has been proceeded further. While so, the second recall petition is filed on the ground that certain important questions were not put on him.

4. The learned counsel appearing for the petitioner submits that the omission to put certain vital question to the witness came to notice only after the change of counsel.

5. This Court is of the view that change of counsel cannot be a reason to recall the witness again and again. The trial Court having considered the nature of the case and the pendency of the case since 2021 had given an opportunity to the accused by recalling the witness. The second petition to recall the witness is filed thereafter. In the order of the Court below it has observed that the witness was present in the Court on



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three occasions but at that time the petitioner was not ready to cross examination. While so, the second recall petition filed belatedly. Since the reasoning given by the Court below is in tune with the law laid down by the Hon'ble Supreme Court in respect of exercising the power under Section 311 Cr.P.C., this Court finds no reason to entertain this petition. Hence this Criminal Original Petition is dismissed. Consequently, the connected Criminal Miscellaneous Petition is also dismissed.

03.06.2024

Index : Yes/No

Neutral Citation : Yes/No

rpl

To

1.The Chief Metropolitan Magistrate, Egmore, Chennai

2.The Inspector of Police,
EOW, Chennai.

3.The Public Prosecutor,
High Court of Madras,
Chennai.



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Dr.G.JAYACHANDRAN,J.
rpl

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