



Crl.O.P.No.13093 of 2024

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 16.07.2024

CORAM

THE HON'BLE MR.JUSTICE VIVEK KUMAR SINGH

Crl.O.P.No.13093 of 2024

M.S.Thangavel

... Petitioner

Vs.

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

... Respondent

PRAYER : Criminal Original Petition filed under Section 482 of Criminal Procedure Code, pleased to set aside the order dated 18.04.2024 made in Crl.M.P.No.4608 of 2024 in Spl.C.C.No.17 of 2015 on the file of the learned Chief Judicial Magistrate, Erode and permit the petitioner to recall P.W.3, P.W.11 and P.W.13.

For Petitioner : Mr.R.Karthikeyan

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



CrI.O.P.No.13093 of 2024

ORDER

WEB COPY

The Criminal Original Petition has been filed seeking to set aside the order dated 18.04.2024 made in CrI.M.P.No.4608 of 2024 in Spl.C.C.No.17 of 2015 on the file of the learned Chief Judicial Magistrate, Erode and permit the petitioner to recall P.W.3, P.W.11 and P.W.13.

2. Learned counsel for the petitioner submitted that the petitioner was a Village Administrative Officer(VAO) and the charges against him is for having demanded illegal gratification from the defacto complainant for issuing his report to get bank loan. He further submitted that the prosecution witnesses were not properly cross examined. He also submitted that the petitioner had filed an application to recall and examine P.W.3, P.W.11 and P.W.13 and the purpose of recalling of P.W.3 was to prove that the third parties were present at the time of trap and the purpose of recalling of P.W.11 and P.W.13 was to confront them with D.1, the service record of the petitioner. However, the trial Court, without looking into the necessity for recalling those witnesses, had dismissed the petition. He further submitted that if the witnesses are not recalled and the petitioner is not permitted to cross examine them, it would amount to denial of



Crl.O.P.No.13093 of 2024

fair trial to the petitioner, which would cause grave prejudice to him. Thereby, he would seek to set aside the order passed by the trial Court in Crl.M.P.No.4608 of 2024 dated 18.04.2024 and permit to recall the witnesses.

3. Per contra, the learned Government Advocate (Criminal Side) submitted that the case is of the year 2008 and the final report was filed in the year 2015. He further submitted that PW3 had clearly deposed in his chief examination that only two persons were present and also proved the same that there were none other than the petitioner/A1 and A2. He further submitted that the service record of the petitioner will only speak about the punishments given to the petitioner and not about his antecedents or general reputation and hence, the prayer of the petitioner to recall P.W.11 and P.W.13 to confront them with D1 is not justified in any manner. He also submitted that only in order to delay the pronouncement of judgment, the petition has been filed.

4. He further submitted that no valid grounds have been made out to show that recalling of witness is essential for arriving at a just and fair decision. He further submitted that the conduct of the petitioner would show that the petition



Crl.O.P.No.13093 of 2024

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 also perused the materials available on record.

6. A perusal of records shows that P.W.3 has been extensively and exhaustively examined and cross examined. Though PW3 has been examined on 29.07.2017 and cross examined on 30.11.2021, the petitioner had not taken any steps to recall him till the fag end of the trial. The petitioner is not an ordinary person, he is a Village Administrative officer. No valid grounds have been raised by the petitioner to show that recalling of witness 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.



CrI.O.P.No.13093 of 2024

WEB COPY 7. Accordingly, the Criminal Original Petition stands dismissed.

16.07.2024

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

To

1. The Chief Judicial Magistrate, Erode.
2. The Deputy Superintendent of Police,
Vigilance and Anti-Corruption,
Erode.
3. The Public Prosecutor,
High Court of Madras.



WEB COPY



Crl.O.P.No.13093 of 2024

VIVEK KUMAR SINGH, J.

vk

Crl.O.P.No.13093 of 2024

16.07.2024