



WEB COPY



CrI.O.P.No.22115 of 2024

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 10.09.2024

CORAM

THE HONOURABLE DR.JUSTICE **G.JAYACHANDRAN**

CrI.O.P.No.22115 of 2024

Selladurai

... Petitioner

Vs.

State Rep.by
The Inspector of Police,
Jayamkondan Police Station,
Ariyalur District.
(Crime No.61 of 2022)

... Respondent

Prayer: Criminal Original Petition is filed under Section 482 Cr.P.C./
528 BNSS, pleaded to set aside the order dated 29.04.2024 made in
CrI.M.P.No.95 of 2024 in S.C.No.58 of 2022 passed by the learned
Assistant Sessions Court, Jayamkondan.

For Petitioner : Mr.M.Neelakandan

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

ORDER

This Criminal Original Petition is filed to set aside the order passed
by the trial Court dismissing the application filed under Section 311
Cr.P.C.



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2. The learned counsel appearing for the petitioner states that

the trial Court ought to have permitted to recall PW.1, PW.11 to PW.13 for further cross examination by granting opportunity, instead of dismissing the petition on presumption that the accused is trying to protract the proceedings. He further states that discovery of truth is essential purpose of trial, fairness of the trial is a virtue that is sacrosanct. In this case, the petitioner who stands trial for grave offence ought to be given an opportunity to cross examine PW.1, the victim girl and PW.11, the doctor who treated her as well as PW.13, the Investigating Officer to elucidate the contradiction in their statement.

3. The learned trial Judge has considered the request made under Section 311 Cr.P.C., he had recorded the fact that PW.1 and PW.11 were recalled earlier and subjected to cross examination. Therefore, the petition to recall these witnesses are obviously to protract the proceedings. Regarding other two witnesses PW.12 and PW.13, the trial Court has recorded that the reason to recall them is not sufficient to satisfy the parameter laid under Section 311 Cr.P.C..

4. Changing the counsel and elucidating contradiction between



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the witnesses whose statement is already recorded found to be inadequate reason to recall.

5. It is a case of offence under Section 307 IPC and harassment to woman. PW.1 is the victim who had been already recalled once and opportunity to cross examine been given to the petitioner herein. Similarly PW.11, the doctor who treated the victim has already been cross examined on the application filed by the petitioner herein to recall. Under these circumstances, right to recall in piecemeal after examining every witnesses is not the object of Section 311 Cr.P.C. For arriving at just decision of the Court, if necessary, Court shall allow the petition under Section 311 Cr.P.C. If the reason given by the petitioner not sufficient to recall the witnesses again and again is unnecessary. In this case, the trial Court has dismissed the application assigning reason.

6. This Court finds no error or illegality in the said order. Hence this Criminal Original Petition is dismissed.

10.09.2024

Index : Yes/No
Neutral Citation : Yes/No
rpl

Dr.G.JAYACHANDRAN,J.



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WEB COPY To

1.The Assistant Sessions Court, Jayamkondan.

2.The Inspector of Police,
Jayamkondan Police Station,
Ariyalur District.

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

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