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CrI.OP.No.19577 of 2024

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 14.08.2024

CORAM

THE HONOURABLE DR.JUSTICE G.JAYACHANDRAN

CrI.OP.No.19577 of 2024

and

CrI.MP.No.11454 of 2024

Godwin

... Petitioner

Vs.

State represented by
The Inspector of Police,
W9, AWPS, Villivakkam,
Chennai-600 049.

... Respondent

Prayer: Criminal Original Petition is filed under Section 528 of B.N.S.S, pleaded to set aside the impugned order in CrI.MP.No.46487 of 2024 in C.C.No.1501 of 2017 dated 05.08.2024 passed by the learned Chief Metropolitan Magistrate, Egmore, Chennai.

For Petitioner : Mr.C.H.Mohith Sai

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

ORDER



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This Criminal Original Petition has been filed challenging the order passed by the trial Court, dismissing his application to re-call P.W.1 for the purpose of cross-examining him.

2. The learned Counsel appearing for the petitioner states that out of ten witnesses, three witnesses are police officials who has investigated the case. One of them, altered the charge and charge alteration report was filed by him. During the cross-examination of that witnesses, few new facts were elicited. Therefore, the re-call and cross examination of P.W.1 has become imminent. Therefore, he seeks for an opportunity to confront P.W.1 with the new information elicited during the cross examination of the Investigating Officer.

3. The learned Government Advocate (Crl.Side) appearing for the respondent police submits that the application filed under Section 311 of Cr.P.C bereft of details and reasoning what is now stated by way of oral submission not reflected in the petition to re-call. Further more, the trial Court after considering the fact that the offense taken cognizance against the petitioner in the year 2017 and after examination of witness and



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questioning incriminating material against the petitioner as per Section 313 of Cr.P.C., the application was filed to re-call after three adjournments granted for the petitioner to adduce defense witness. Therefore, the trial Court after recording the reasons that the application to re-call P.W.1 was examined on 22.06.2023 does not warrant any consideration.

4. The records and the order of the trial Court reveals that P.W.1 was cross-examined by the accused on two days ie., 07.06.2023 and 22.06.2023. It has been an extensive cross examination running to seven pages. After examination of the other prosecution side witnesses, prosecution has closed its side on 10.06.2024 and thereafter, the Court has proceeded to the next stage of questioning under Section 313 of Cr.P.C, adjourn the matter for defense witnesses for three hearings.

5. The trial Court recording that fact that the incident took place in the year 2015, P.W.1 was extensively examined during the month of June 2023 whereas recall petition is filed after more than a year, just to stall the proceedings, this Court does not find any error in the order of the trial Court, it is neither perverse nor illegal. Hence this Criminal Original



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Petition to set aside the order of the trial Court stands dismissed.

Consequently, the connected miscellaneous petition is closed.

14.08.2024

Vv

To

1. The Inspector of Police,
All Women Police Station(W8),
Thirumangalam,
Chennai District.
2. The Public Prosecutor,
High Court of Madras.

Dr.G.JAYACHANDRAN,J.



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