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CRL.O.P. No. 22753 of 2024

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 18.09.2024

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THE HON'BLE MR. JUSTICE M. NIRMALKUMAR

CRL.O.P. No. 22753 of 2024

Rajiv Gandhi

..Petitioner

Vs.

The State rep by its
Inspector of Police,
Keelkuppam Police Station,
Villupuram District.
(Crime No. 630 of 2020)

..Respondent

Prayer: Criminal Original Petition to set aside the order dated 22.07.2024 passed in C.M.P. No. 133 of 2024 in S.C. No. 110 of 2021 on the file of Additional Sessions Judge, Kallakurichi and permit the petitioner to cross-examine the prosecution witnesses P.W.1 to P.W.19.

For Petitioner :: Mr.K. Myilsamy

For Respondent :: Mr.S. Udayakumar,
Govt.Advocate (Crl.Side)

O R D E R

The petitioner/accused in S.C.No. 110 of 2021 had filed a petition under Section 311 Cr.P.C. , namely, C.M.P. No. 133 of 2024 to recall P.W.s

1 to 19 for the purpose of cross-examination. By order dated 22.07.2024, the



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Trial Court dismissed the same as against which the present revision has been filed.

2. The contention of the learned counsel for the petitioner is that the petitioner is facing serious charges under Sections 294(b), 302, 323 and 324 IPC. P.W.s 1 to 4 are important witnesses, who have to be cross-examined again. According to the learned counsel for the petitioner, though P.W.s 1 to 19 have been cross-examined, due to subsequent development and to bring certain vital points on record, the petitioner seeks permission to cross-examine P.W.s 1 to 4 and that he would complete his cross-examination on the same day.

3. Learned Government Advocate (Crl.Side) would oppose the same stating that in this case, 19 witnesses have been examined and they have been cross-examined as well. Referring to the Lower Court Order, he would submit that there are totally 22 witnesses and only two more witnesses to be examined to complete the prosecution case. On 18.08.2021, P.W.s 1 to 4 were examined in chief and they were cross-examined on the same day itself. Thereafter, on 23.08.2021, P.W.s 5 to 7 were examined and they were cross-examined on the same day. P.W.s 8 and 9 were examined and since they turned hostile, they were not cross-examined. P.W.s 10 and



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11 are witnesses from the Forensic Science Laboratory and they were not cross-examined. P.W.s 12, 13 and 15 were examined and cross-examined. P.W.14 did not support the case of the prosecution and therefore, was not cross-examined. P.W. 16 to P.W.18 are police personnel, who have been examined and cross-examined. P.W.19 is the Doctor, who conducted postmortem and he was also cross-examined. All the witnesses have been cross-examined except the witnesses, who turned hostile and did not support the case of the prosecution. Therefore, the learned Government Advocate (Crl.Side) would submit that the request of the petitioner is untenable and the petition is liable to be dismissed.

4. In this case, now, the petitioner is seeking permission to further cross-examine P.W.s 1 to 4, who were examined and cross-examined on 18.08.2021. It would only be a harassment to the said witnesses. If the petitioner wants to give any further explanation, the petitioner has got an opportunity at the stage of questioning under Section 313 Cr.P.C. or the petitioner can examine himself by getting into the box under Section 315 Cr.P.C. and give his further explanation. The Investigating Officer is yet to be cross-examined and the petitioner can very well put questions to the Investigating Officer also. The Trial Court had considered all these aspects and rightly dismissed the petition. This Court finds that the Trial Court has



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passed a detailed order giving details of examination of witnesses and also their cross-examination. It is not in dispute that P.W.s 1 to 4 were examined and cross-examined in detail as early as on 18.08.2021. This Court finds no reason to interfere with the order passed by the Trial Court. If at all, the petitioner wants to give any explanation, he can very well do so at the stage of questioning under Section 313 Cr.P.C. or under Section 315 Cr.P.C. or during the cross-examination of Investigating Officer.

5. With the above observation, the criminal original petition stands dismissed.

18.09.2024

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To

1. The Court of Additional Sessions,
Kallakurichi.
2. Inspector of Police,
Keelkuppam Police Station,
Villupuram District.
3. The Public Prosecutor,
High Court, Madras.

M. NIRMALKUMAR,J.



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