



WEB COPY



Crl.OP.No.23227 of 2024

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 23.09.2024

CORAM

THE HONOURABLE DR.JUSTICE G.JAYACHANDRAN

Crl.OP.No.23227 of 2024

and

Crl.MP.No.13165 of 2024

Kumarasivam

.. Petitioner

Vs.

1. The State rep.by
Inspector of Police,
City Crime Branch,
Coimbatore City,
Coimbatore District.
(Cr.No.81 of 2017)

... Respondent

Prayer: Criminal Original Petition is filed under Section 528 of BNSS, 2023, to set aside the order dated 20.08.2024 passed by the learned Judicial Magistrate-VII, Coimbatore in Crl.MP.No.24505 of 2024 in C.C.No.321 of 2019.

For Petitioner : Mr.L.Mouli

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

ORDER



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The order of the learned Judicial Magistrate-VII,Coimbatore dismissing the second application to recall witnesses is under challenge in this Criminal Original Petition.

2. The complaint for offence under Sections 406 and 420 of IPC registered in Cr.No.81 of 2017 is pending trial before the learned Judicial Magistrate-VII,Coimbatore in C.C.No.321 of 2019 for the past five years. After examining 13 witnesses on the side of the prosecution, the application to re-call the witnesses been filed by the petitioner herein.

3. The Court below after considering the submissions made by the counsel appearing for the petitioner and the learned Government Advocate (CrI.Side) dismissed the application stating that the prosecution has commenced examination of witnesses on 17.06.2022 and as on 27.05.2024, ten witnesses was examined on the prosecution side.

4. The accused had filed an application under Section 311 of Cr.P.C, when the prosecution witnesses, seven was examined in chief. The same was dismissed on 24.08.2024 and the remaining three more witnesses were examined and thereafter the petitioner has revived his



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application under Section 311 of Cr.P.C again without any satisfactory reasoning.

5. This Court on considering the petition to reopen and recall and the conduct of the petitioner as narrated in the impugned order finds that the petitioner had deliberately failed to cross examine the witnesses and after two years has revived his application to recall the witnesses again and the reasoning assigned in the petition does not disclose why the witnesses were not examined when they were present. Hence, this Criminal Original Petition stands dismissed. Consequently, the connected miscellaneous petition is closed.

23.09.2024

Vv

To

1. The Inspector of Police,
City Crime Branch,
Coimbatore City,
Coimbatore District.
2. The Public Prosecutor,
High Court of Madras, Chennai.

Dr.G.JAYACHANDRAN,J.



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