



WEB COPY



CrI.O.P.No.24546 of 2024

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 04.10.2024

CORAM

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

CrI.O.P.No.24546 of 2024

and

CrI.M.P.No.13828 of 2024

M.Muralidharan

... Petitioner

Vs.

The State Rep by,
The Inspector of Police,
Thimiri Police Station,
Ranipet District.
(Crime No. 66/2014)

... Respondent

Prayer: Criminal Original Petition is filed under Section 482 Cr.P.C./ 528 BNSS, pleaded to set aside the order dated 20.08.2024 in CrI.M.P.No.188 of 2024 in S.C.No.72 of 2017, on the file of the I Additional District and Sessions Judge, Ranipet, and to allow the Criminal Original Petition.

For Petitioner : Mr.C.Prabakaran

For Respondent : Mr.K.M.D.Muhilan
Government Advocate (CrI.Side)

ORDER

The petitioner/accused of double murder is before this Court being aggrieved by the dismissal of the petition filed under Section 311 Cr.P.C.

The petitioner wants to recall PW.1 to PW.13 for cross examination. The



CrI.O.P.No.24546 of 2024

reasons stated in the petition is that he being a Coolie, he was not able to engage a counsel to defend him earlier. Now he was engaged a counsel and for effective defence, he wants to recall PW.1 to PW.13 and cross examine them.

2. Before the trial Court opposing the Section 311 Cr.P.C., petition, the prosecution has filed counter, in which, it is stated that PW.1 to PW.13 were examined as early as 27.01.2020 and when the matter was posted for defence side witness and thereafter for arguments, the petitioner/accused failed to appear before the Court and Non Bailable Warrant was issued against him. After four years, warrant was executed and the accused was remanded to judicial custody. At this stage, he has filed a petition to recall PW.1 to PW.13, just to prolong the case.

3. The trial Court, after considering the submissions made by the learned counsel for the petitioner and the learned Public Prosecutor, dismissed the petition to recall PW.1 to PW.13 taking note of the fact that the incident of double murder occurred on 10.03.2014, . The victims in this case are none other than the parents of the accused. The prosecution has marshalled the witnesses and completed the chief examination on



CrI.O.P.No.24546 of 2024

27.01.2020. The petitioner jumped bail and was in abscondance for more than 4 years. He was secured on 22.02.2024 on execution of Non Bailable Warrant. Presently, he is in prison. Now he has taken legal assistance and moved application to recall the witnesses for cross examination. No doubt, the Hon'ble Supreme Court in *Vinodkumar Vs. State of Punjab* case had categorically held that in a Sessions Case, trial must be conducted on day to day basis and the witnesses must be cross examined by the accused on the same day of chief examination and the witnesses should not be recalled unnecessarily. In this case, the petitioner after obtaining jumped bail and absconded. Police were able to secure him only after four years.

4. Being the case of very grave nature condemning the accused without affording opportunity to cross examine the witnesses does not auger well for dispensing fair justice, though he lost the right due to his own conduct. Therefore, to meet the ends of justice, the order of the trial Court is set aside. In view of his past conduct of prolong abscondance for more than 4 years, the petition to recall PW.1 to PW.13 is allowed on conditions (i) The petitioner shall not seek for bail till the disposal of the



CrI.O.P.No.24546 of 2024

S.C.No.72 of 2017. (ii) The petitioner should cross examine the witnesses on the day of their presence and if he failed to cross examine, no further opportunity be given to the petitioner to recall the witnesses.

5. With the above observations, this Criminal Original Petition is disposed of. Consequently, the connected Criminal Miscellaneous Petition is closed.

04.10.2024

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

To

1.The I Additional District and Sessions Judge, Ranipet.

2.The Inspector of Police,
Thimiri Police Station,
Ranipet District.

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

Dr.G.JAYACHANDRAN,J.
rpl



WEB COPY



CrI.O.P.No.24546 of 2024

CrI.O.P.No.24546 of 2024

04.10.2024