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CrI.O.P.(MD) No.1370 of 2024

BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

DATED: 31.01.2024

CORAM

THE HON'BLE MR.JUSTICE SATHI KUMAR SUKUMARA KURUP

CRL.O.P (MD) No.1370 of 2024

and

CrI.M.P.(MD)No.944 of 2024

Christopher

... Petitioner

Vs.

The Inspector of Police

Marthandam Police Station,

Kanniyakumari District.

(Crime No.83 of 2015)

... Respondent

PRAYER: Criminal Original Petition filed under Section 482 of Cr.P.C, to call for the records and to set aside the order in Cr.M.P.No.145 of 2023 in S.C.No.97 of 2015 on the file of the learned Additional District Judge, Kuzhithurai, Kanniyakumari District.

For Petitioner : Mr.K.Prabhu

For Respondent : Mr.B.Thanga Aravindh
Government Advocate (CrI.side)



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ORDER

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The learned Counsel for the Petitioner submits that the Petitioner is a sole accused in S.C.No..97 of 2015, pending on the file of the learned Additional District Judge, Kuzhithurai, Kanniyakumari District. The Petitioner had filed this Petition seeking to set aside the order passed by the learned Additional District Judge, Kuzhithurai, Kanniyakumari District, in Cr.M.P.No.145 of 2023 in S.C.No.97 of 2015, dated 10.11.2023.

2. On perusal of the impugned order, it is seen that the learned Principal District Judge, holding the Full Additional Charge of the learned Additional District Judge, Kuzhithurai, Kanniyakumari District, had dismissed the Petition based on the Ruling of the Hon'ble Supreme Court in ***Vinod Kumar V. State of Punjab*** reported in ***2015 (3) SCC 220***.

3. In the reported decision in ***Vinod Kumar V. State of Punjab [2015 (3) SCC 220]***, the Hon'ble Supreme Court had deprecated the practise of Trial Courts ignoring the earlier guidelines issued by the Hon'ble Supreme Court repeatedly not to exercise powers under Section 311 Cr.P.C., to defer the cross examination of witnesses in grave offences, particularly, Sessions



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trial, where witnesses are in Court, the appearing Counsels seek to recall witnesses at their convenience. That cannot be allowed. Only in rare instances, the witnesses shall be recalled. In the very same case, the earlier Ruling of the Hon'ble Supreme Court and the direction issued to the trial Court across the Country, were pointed out. Still the Trial Judges are ignoring the said guidelines and in that Judgment, the Hon'ble Supreme Court had issued directions to the High Court throughout the Country to circulate this judgment to the trial Judges across the respective States with the warning that if there is any violation by the Trial Judge, the High Court shall deal with the Trial Judges, for Departmental actions and acknowledgment was also received by the High Courts concerned.

4. Here, in this case, the learned Judge on the basis of the said reported Ruling, had dismissed the Petition under Section 311 Cr.P.C., to recall the witnesses. The attempt of the Counsels engaged by the Petitioner is against the reported Ruling, where, the Trial Court Judges were want of Departmental action for violating the Ruling of the Hon'ble Supreme Court, regarding delay in criminal Case, particularly, in Sessions Case in not cross-examining the witnesses, who deposed in Criminal Trial as prosecution



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witnesses, then and there. When the learned Judge had dismissed the Petition filed under Section 311 Cr.P.C. quoting the very same Ruling, the accused cannot seek indulgence of the High Court to exercise power under inherent jurisdiction under Section 482 Cr.P.C., thereby dilute the Ruling of the Hon'ble Supreme Court.

5. This Petition has no merit. Hence, this ***Criminal Original Petition*** is dismissed. Consequently, connected Miscellaneous Petition is closed.

Internet: Yes./No
Index: Yes/No
NCC : Yes/No
Ls

31.01.2024



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To

- 1.The Additional District Judge,
Kuzhithurai,
Kanniyakumari District
- 2.The Inspector of Police
Marthandam Police Station,
Kanniyakumari District.
- 3.The Additional Public Prosecutor,
Madurai Bench of Madras High Court,
Madurai.



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SATHI KUMAR SUKUMARA KURUP, J.

LS

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