



Crl.O.P.(MD)No.13368 of 2021

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BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

DATED: 05.01.2024

CORAM:

THE HONOURABLE MRS.JUSTICE R. HEMALATHA

Crl.O.P.(MD)No.13368 of 2021 &
Clr.M.P.(MD)No.6929 of 2021

Deiveeswari

... Petitioner

vs.

The State rep by.
The Inspector of Police,
E.O.W.II Police Station,
Tirunelveli District.
Crime No.1 of 2013

... Respondent

Prayer: Criminal Original Petition filed under Section 482 of the Code of Criminal Procedure praying to set aside the orders dated 15.03.2021 in Crl.M.P.No.622 of 2021 in C.C.No.1 of 2014 on the file of the Special Judge, Special Court under TNPID Act Cases, Madurai.

For Petitioner

:No appearance

For Respondent

:Mr.R.M.Anbunithi,
Additional Public Prosecutor (Crl. Side)



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ORDER

Challenging the orders dated 15.03.2021 passed by the learned Special Judge, Special Court under TNPID Act Cases, Madurai in CrI.M.P.No.622 of 2021 in C.C.No.1 of 2014, the present Criminal Original Petition is filed.

2. The petitioner is the 3rd accused in C.C.No.1 of 2014. The charges framed against him were for the offences punishable under Sections 406, 420 of IPC and Section 5 of TNPID Act. So far, 48 witnesses have been examined on the side of the prosecution, out of which, the petitioner had cross examined PW44 to PW47. She filed an application under Section 311 of Cr.P.C. in Cr.M.P.No.1600 of 2020 and the same was dismissed, on merits and after hearing both sides, on 30.11.2020.

3. The petitioner once again filed another petition in Cr.M.P.No.513 of 2021 to re-call the witnesses, without disclosing the



dismissal of the earlier petition in Cr.M.P.No.1600 of 2020.

Subsequently, it was dismissed as not pressed.

4. Yet another application in Cr.M.P.No.622 of 2021 was filed by the petitioner to re-call all the witnesses whom she had not cross examined, wherein also, dismissal of the earlier petition in Cr.M.P.No. 1600 of 2020 was not disclosed. The learned Special Judge after analysing the entire records, dismissed the said application by observing thus.

"5...

It is seen from the records that P.W1 was examined in the year 2015. Examination of material witnesses completed in the year 2017 and the petitioner did not cross examine those witnesses. Subsequently this petitioner filed Cr.M.P.No. 1600/2020 to recall P.W1 to P.W44 and that petition was dismissed on merits on 30.11.2020. Suppressing the fact of dismissal, this petitioner then filed Cr.M.P.No.513/2021 to examine the same prosecution witnesses on her side as defence



witnesses. *In that petition, the petitioner tactfully shuffled the serial number of witnesses and stated in the petition. That petition was filed on 24.2.2021 and after the respondent filed counter, the petitioner has not pressed that petition on 06.03.2021. Again this petition is filed.*

6) *As rightly contended by the respondent, one witness namely Chellapandi already died and he was not examined on the side of the prosecution. That witness also shown in the petition to recall. Even after sufficient opportunity, this petitioner has not cross examined the witnesses. After three years, now this petition is filed only to delay the proceedings in this case and liable to be dismissed.*

7) *The Hon'ble Supreme Court in the case VinothKumar (vs) State of Punjab has clearly held that long after the witnesses were examined the petition to recall for cross examination cannot be allowed."*



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5. Mr.P.Banuprasath, learned counsel on record for the petitioner appeared before this Court this morning and requested to pass over the matter. However, there was no appearance subsequently when the matter was called once again.

6. Heard the learned Additional Public Prosecutor (Criminal Side) appearing for the respondent.

7. It is seen from the records that though PW1 to PW43 had been examined in Chief during 2015 to 2017, the petitioner failed to cross examine them when they were present. Only in the year 2020, she filed a petition to re-call PW1 to PW44. Though the said petition was dismissed, she did not prefer any Revision. Subsequently, she filed another application in Cr.M.P.No.513 of 2021 and the said petition was dismissed as not pressed on 06.03.2021. Thus, the petitioner has been adopting a delaying tactics. A well-reasoned order has been passed by the learned Special Judge, Special Court under TNPID Act Cases, Madurai in CrI.M.P.No.622 of 2021. All the observations made by the Trial Court



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are perfectly in order and I do not find any reason to interfere with the same.

8. Accordingly, the Criminal Original Petition is dismissed. Consequently, the connected Miscellaneous Petition is closed. The learned Special Judge, Special Court under TNPID Act Cases, Madurai is directed to dispose of the case in C.C.No.1 of 2014 as expeditiously as possible.

05.01.2024

mbi

NCC: Yes/No

Index : Yes/No

Speaking/Non-Speaking order

To

1.The Inspector of Police,
E.O.W.II Police Station,
Tirunelveli District.

2.The Additional Public Prosecutor,
Madurai Bench of Madras High Court, Madurai.



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R.HEMALATHA, J.

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