



Crl.O.P.(MD)No.8286 of 2024

BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

DATED: 20.06.2024

CORAM

THE HON'BLE MR.JUSTICE K.K.RAMAKRISHNAN

Crl.O.P.(MD)No.8286 of 2024

and

Crl.M.P.(MD)No.5631 of 2024

Ravi

... Petitioner/Petitioner/Sole Accused

Vs

The State rep. By its
The Inspector of Police,
Vigilance and Anti-Corruption,
Pudukottai District.
(Crime No.1 of 2012)

... Respondent/Respondent/Complainant

PRAYER: Criminal Original Petition filed under Section 482 of the Criminal Procedure Code, to set aside the order dated 26.04.2024 made in Crl.M.P.No. 434 of 2023 in Spl.C.C.No.6 of 2013 on the file of the learned Chief Judicial Magistrate, Pudukottai with respect to P.W.3.

For Petitioner : Mr.C.Prithiviraj

For Respondent : Mr.S.Ravi
(Additional Public Prosecutor)

ORDER

This Criminal Original Petition case has been filed to set aside the order dated 26.04.2024 made in Crl.M.P.No.434 of 2023 in Spl.C.C.No.6 of 2013 on



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the file of the learned Chief Judicial Magistrate, Pudukottai with respect to P.W.3.

2. The petitioner an accused in Spl.C.C.No.6 of 2013 filed this Criminal Original Petition, challenging the dismissal order passed in Crl.M.P.No.434 of 2023 against the application he filed under Section 311 of Cr.P.C. seeking to recall P.W.3 and P.W.15 for the purpose of cross examination. The petitioner is said to have committed the offences under Sections 7, 13(2) r/w 13(i)(d) of Prevention of Corruption Act, 1988. After registering the case in the year 2012, the investigating agency filed a final report and the same was taken on file in Spl.C.C.No.6 of 2013. Thereafter, the case was posted for trial and the trial commenced by examining P.W.1 on 13.02.2017. P.W.2 was examined on 22.02.2017. P.W.3 was examined on 05.04.2017. In the said case, number of witnesses were examined. He filed a petition to recall P.W.4, 5, 9, 16 to 19, 21 and 22. Thereafter, summons were issued to the said witnesses on 19.06.2019. The case was posted on 06.07.2023. The learned trial Judge adjourned the matter to 13.07.2023 for examination of the accused under Sections 313(ii) Cr.P.C. On 10.07.2023, the petition was filed under Section 311 of Cr.P.C. by the petitioner and 313 Cr.P.C., proceeding was completed on 13.07.2023 and the case was posted for the examination of the defence witness on 20.07.2023.



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The recall petition filed under Section 311 of Cr.P.C. is pending in Crl.M.P.No. 434 of 2023. The said petition was allowed by the impugned order regarding recall of P.W.15 and dismissed against P.W.3. Challenging the same, this petition has been filed before this Court.

3. The petitioner after number of years from the commencement of the trial and also examination of P.W.3, filed the petition without any bonafide reasons, apart from that P.W.3 is dead. In the said circumstances, the learned trial Judge correctly dismissed the petition. P.W.3 has completed his examination on the side of the prosecution on 02.05.2017. This petition has been filed after six years and hence the learned trial Judge dismissed the petition.

4. This Court carefully perused the materials available on records.

5.The learned Government Advocate(Crl.Side) produced the death certificate of P.W.3. In such circumstances, the prayer of the petitioner was also dismissed on that ground. After the examination of the witness on 02.05.2017 filing this petition after the death of P.W.3-Mr.Shanmugam, is not acceptable.



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6. The petitioner is the accused in Spl.C.C.No.6 of 2013 on the file of the learned Chief Judicial Magistrate, Pudukottai. He is said to have committed offences under Sections 7, 13(2) r/w 13(i)(d) of Prevention of Corruption Act, 1988. P.W.3 was examined on 02.05.2017, subsequently, number of witnesses also examined. Thereafter, the petitioner filed the recall petition to recall number of witnesses and all the witnesses were examined. He has not filed the recall petition earlier. Now, he has come forward with the application under Section 311 of Cr.P.C., to recall P.W.3. As already stated he has not taken any steps to recall P.W.3 earlier on 19.06.2019 itself. Now, examination of all the witnesses are completed and the case is posted for defence witness. From the sequence of events, it appears that his intention is not *bonafide*.

7. Further, according to the learned Additional Public Prosecutor, P.W.3 is dead. Knowing the fact, he filed the petition to recall P.W.3. He filed this petition after six years from the date of the chief examination. In the said circumstances, this Court is inclined to dismiss this petition. The learned trial Judge is at liberty to appreciate the evidence of P.W.3, in accordance with law and the learned Trial Judge is hereby directed to complete the trial within a period of two months from the date of receipt of a copy of this order.



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8. The learned trial Judge is directed to consider the evidence available on record. Hence this Court dismisses this Criminal Original Petition with the following directions:-

a) the trial Court is directed to complete the trial within a period of two months from the date of receipt of a copy of this order; and

b) the trial Court is further directed to consider dispassionately the deposition of P.W.3 in chief examination and for cross examination made earlier.

Consequently, connected miscellaneous petition is also closed.

20.06.2024

NCC: Yes/No
Index: Yes/No
Internet: Yes/No
RJR/sbn

To

1. The learned Chief Judicial Magistrate, Pudukottai.
2. The Additional Public Prosecutor,
Madurai Bench of Madras High Court, Madurai.



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K.K.RAMAKRISHNAN, J.

RJR/sbn

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