



Crl.O.P.(MD) No.22782 of 2023

BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

DATED: 03.01.2024

CORAM:

THE HONOURABLE MR. JUSTICE SATHI KUMAR SUKUMARA KURUP

Crl.O.P.(MD) No.22782 of 2023
and Crl.M.P(MD)No.17823 of 2023

Suresh

... Petitioner

Vs

The Sub Inspector of Police,
KK Nagar Police Station,
Trichy District. Crime No.396/2021.

... Respondent

PRAYER: Criminal Original Petition filed under Section 482 Cr.P.C. praying this Court to set aside the order dated 15/11/2023 passed in Crl.MP.No. 33861/2023 in SC.No.47/2023 on the file of the learned Chief Judicial Magistrate, Tiruchirappalli and allow the same.

For Petitioner : Mr.R.M.Sivakumar

For Respondent : Mr.B.Thanga Aravindh
Government Advocate (Crl.Side)



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ORDER

This Criminal Original Petition had been filed to set aside the order, dated 15.11.2023 passed by the the learned Chief Judicial Magistrate, Tiruchirappalli in Crl.MP.No.33861 of 2023 in SC.No.47 of 2023.

2.It is the submission of the learned counsel for the Petitioner that the Petitioner is arrayed as an accused in S.C.No.47 of 2023 before the learned Chief Judicial Magistrate, Tiruchirapalli/Assistant Sessions Judge, Tiruchirapalli. The Petitioner filed Crl.M.P.No.33861 of 2023 in S.C.No.47 of 2023 seeking to recall PW1 and PW2 and subject them to further cross examination. The said petition was dismissed by the learned Chief Judicial Magistrate, Tiruchirapalli as per order, dated 15.11.2023. It is the submission of the learned counsel for the Petitioner that after cross-examination of PW1 and PW2, an expert witness was examined. Therefore, to protect the right and defence of the accused, he had valid points to cross examine PW1 and PW2 regarding the Expert's opinion.

3.The submissions of the learned counsel for the Petitioner was



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not considered by the learned Chief Judicial Magistrate and rejected the contentions seeking to recall of PW1 and PW2. Therefore, he filed this petition under Section 482 of Cr.P.C., seeking to set aside the order of the learned trial Judge.

4.The learned Government Advocate (Crl.Side) vehemently objected that the petition filed by the Petitioner in Crl.M.P.No.33861 of 2023 was stoutly opposed by the prosecution before the trial Court. Therefore, after due enquiry, the learned Chief Judicial Magistrate, Tiruchirapalli has dismissed the petition.

5.On a perusal of the order passed by the learned Chief Judicial Magistrate, Tiruchirapalli in Crl.M.P.No.33861 of 2023, dated 15.11.2023, it is seen that it is a well reasoned order. It has been clearly stated that PW1 and PW2 were already cross examined by the accused. After cross examination, petition under Section 311 Cr.P.C had been filed only to harass the victim. Further it is stated that in the petition filed by the Petitioner/accused stated that “some vital aspects” were not put to the witness and the same was not taken into account by the learned trial Judge. Regarding the “some vital



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aspects”, the learned trial Judge stating that it is vague.

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6.The learned Chief Judicial Magistrate, Tiruchirapalli had also relied on reportable Judgment regarding the right of the accused to recall witness and had rightly dismissed the petition. When the Hon’ble Supreme Court had issued guidelines in a reported decision in ***Vinod Kumar Sharwa vs State of Punjab***, directed to circulate it to all the High Courts across the Country to circulate the guidelines to the trial Judges through respective High Courts. In the light of that reported ruling when the Hon’ble Supreme Court had issued directions to the High Court to circulate the Judgment and obtain counter signature from the trial Judges across India, the attitude of the accused ignoring those guidelines and repeatedly indulging in filing petition under Section 311 of Cr.P.C has to be curtailed.

7.Accordingly, the learned trial Judge had dismissed the petition. By exercising the extraordinary jurisdiction under Section 482 of Cr.P.C, this Court cannot ignore the guidelines of the Hon’ble Supreme Court in exercising the right of the accused under Section 311 Cr.P.C and dilute the very same Judgment. Therefore, by rejecting the submissions made by the



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learned counsel for the petitioner, this petition stands dismissed.

Consequently, connected miscellaneous petition is closed.

03.01.2024

NCC:Yes/No
Internet:Yes/No
Index:Yes/No
PNM

To

1.The Sub Inspector of Police,
KK Nagar Police Station,
Trichy District. Crime No.396/2021.

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



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SATHI KUMAR SUKUMARA KURUP, J.

PNM

ORDER IN
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