



CrI.O.P.No.8426 of 2024

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 12.04.2024

CORAM

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

CrI.O.P.No.8426 of 2024

and

CrI.M.P.No.6169 of 2024

1.Imrankan
2.Nowsathkan
3.E.Razeethabegam ... Petitioners

Vs.

The Sub Inspector of Police,
B-8, Varity Hall Police Station(L&O),
Coimbatore (Crime No.260/2009) ... Respondent

Prayer: Criminal Original Petition is filed under Section 482 of Criminal Procedure Code, pleased to call for the records in CMP.No.2849 of 2024 in C.C.No.139 of 2009 on the file of the Judicial Magistrate No.IV, Coimbatore and set aside the same.

For Petitioners : Mr.B.Manoharan

For Respondent : Mr.S.Udaya Kumar
Government Advocate (CrI.Side)

ORDER

The Petition filed to recall PW.1, PW.6 & PW.7 was dismissed by the trial Court. Hence this Criminal Original Petition is filed.



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WEB COPY 2. The learned counsel appearing for the petitioners submitted that these three witnesses are very crucial and if the cross examination of these witnesses are not permitted to recall them, great prejudice will be caused. Further, he submitted that PW.1 was examined on 20.06.2018 and thereafter, the prosecution has marshal their witnesses on several days. When PW.6 and PW.7 were examined in chief on 20.11.2023, a request was made to the Court that after recalling PW.1, all the three witnesses will be cross examined together, but the trial Court declined to grant opportunity on the petition filed under Section 311 Cr.P.C., and also dismissed. Hence the present petition is filed.

3. The learned Government Advocate (CrI.Side) appearing for the respondent police submitted that at the fag end of the trial, petition to recall PW.1, PW.6 and PW.7 was made. While PW.1 was examined five years ago, there was no reason not to examine PW.6 & PW.7. Citing that before cross examining these two witnesses, they have to examine PW.1, for which neither petition to defer cross filed nor an application to recall PW.1 made immediately. When PW.6 & PW.7 examined in chief on 20.11.2023, there was no reason not to cross examine them on that day.



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The accused under the guise of fair opportunity, when try to delay the process, the Court could not be a silent spectator.

4. When the witnesses present, the accused cannot unnecessarily seek for adjournment without cross examining the witnesses and to cause harassment to the witnesses. It is not the will and wish of the accused to examine the witnesses as if he feels convenient. For not cross examining PW.1, who was examined in chief five years ago, he cannot refuse to cross examining other witnesses are present. In this case precisely, the petitioner has adopted the techniques. The trial Court has rightly pointed out and declined to entertain the petition under Section 311 Cr.P.C.,

5. This Court finds that the said order is absolutely in tune with the direction of the Hon'ble Supreme Court and the provisions of law. The case which was registered in the year 2009 in Crime No.260 of 2009 not yet reached the finality even after 15 years. The present application to recall the witnesses, it is only delay the process further and will not be in the interest of justice. Hence this Criminal Original Petition is dismissed. Consequently, the connected Criminal Miscellaneous Petition is also



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dismissed.

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Index : Yes/No

Neutral Citation : Yes/No

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To

1.The Judicial Magistrate No.IV, Coimbatore.

2.The Sub Inspector of Police,
B-8, Varity Hall Police Station(L&O),
Coimbatore

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

Dr.G.JAYACHANDRAN,J.

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