

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 27.08.2015

CORAM

THE HONOURABLE MR.JUSTICE A.SELVAM

Cr1.OP No.20978 of 2015

and

M.P.No.1 of 2015

R.Velmurugan

...

Petitioner/Accused

Vs

State, rep.by its
Deputy Superintendent of Police,
Vegilance and Anti-Corruption,
Chennai City-IV,
Nandanam,
Chennai-600 035

...

Respondent/Complainant

Prayer:- Criminal Original Petition filed under Section 482 Cr.P.C., to set aside the order dated 15.07.2015 made in C.M.P.No.520 of 2015 in Special Case No.3 of 2010, on the file of the Chief Judicial Magistrate Court, Chengalpet, in so far as P.W.1 and P.W.2 are concerned.

For Petitioner :Mr.V.Manopriya

For Respondent :Mr.P.Govindarajan
Additional Public Prosecutor

ORDER

This Criminal Original Petition has been filed under section 482 of the Code of Criminal Procedure, 1973, praying to set aside the order dated 15.07.2015, passed in C.M.P.No.520 of 2015 in Special Case No.3 of 2010, by the Chief Judicial Magistrate Court, Chengalpet.

2. It is averred in the petition that the petitioner has been shown as accused in Special Case No.3 of 2010, pending on the file of the Chief Judicial Magistrate Court, Chengalpet, wherein on the side of the respondent/complainant, P.Ws.1 to 4 have been examined. But, P.Ws.3 and 4 have not been cross-examined. On the side of the petitioner/accused, P.Ws.1 and 2 have been cross-examined, but due to typographical error, the answer given by P.W.2 has not been properly typed. Under the said circumstances, so as to recall P.Ws.1 to 4, the present petition has been filed.

3. The trial Court, after considering the rival submissions made on either side, has allowed the petition in part and thereby permitted the petitioner to cross-examine P.Ws.3 and 4 and

dismissed the petition in respect of the relief sought for with regard to P.Ws 1 and 2. Against the order passed by the trial Court, the present criminal original petition has been preferred on the file of this Court.

4. The learned counsel appearing for the petitioner has contended that P.W.2 is a defacto complainant and since, he has not supported the version of the prosecution, he has been treated as a hostile witness. But during the course of cross-examination made on the side of the petitioner/accused, he candidly admitted that as per dictation given by the vigilance officer, he has written the complaint. But it has been erroneously typed as if he refused the said question. Under the said circumstances and also for the purpose of cross-examining P.Ws.3 and 4, the present petition has been filed. But the trial Court has erroneously allowed the petition in part. Under the said circumstances, the order passed by the trial Court is liable to be set aside and the petition is liable to be allowed in toto.

5. The learned Additional Public Prosecutor has contended that admittedly P.W.2 has been treated as a hostile witness. During the course of cross-examination made on the side of the petitioner/accused, he candidly stated to the effect that he has not written the complaint as per the dictation given by the vigilance officer. Under the said circumstances, the trial Court has rightly rejected the relief with regard to recall of P.Ws.1 and 2.

6. In fact, this Court has perused the entire averments made in the petition. It is an admitted fact that during the course of cross-examination made on the side of the petitioner/accused, P.W.2 has categorically denied the question posed to him on the side of the petitioner/accused with regard to writing of the complaint in question. Since P.W.2 has given such kind of categorical answer, this petition has been filed so as to get favourable answer from P.W.2. Since the present petition has been filed so as to get favourable answer from P.W.2 with regard to writing of the complaint in question, this Court is of the view that the finding arrived at by the trial Court with regard to P.Ws.1 and 2 is perfectly correct and the same does not call for any interference and altogether the present criminal original petition deserves to be dismissed.

In fine, this criminal original petition is dismissed. Consequently, connected miscellaneous petition is dismissed.

Sd/-

Asst.Registrar (CS II)

/true copy/

msk

Sub Asst. Registrar

To

1.The Chief Judicial Magistrate,
Chengalpet.

2.The Deputy Superintendent of Police,
Vegilance and Anti-Corruption,
Chennai City-IV,
Nandanam,
Chennai-600 035

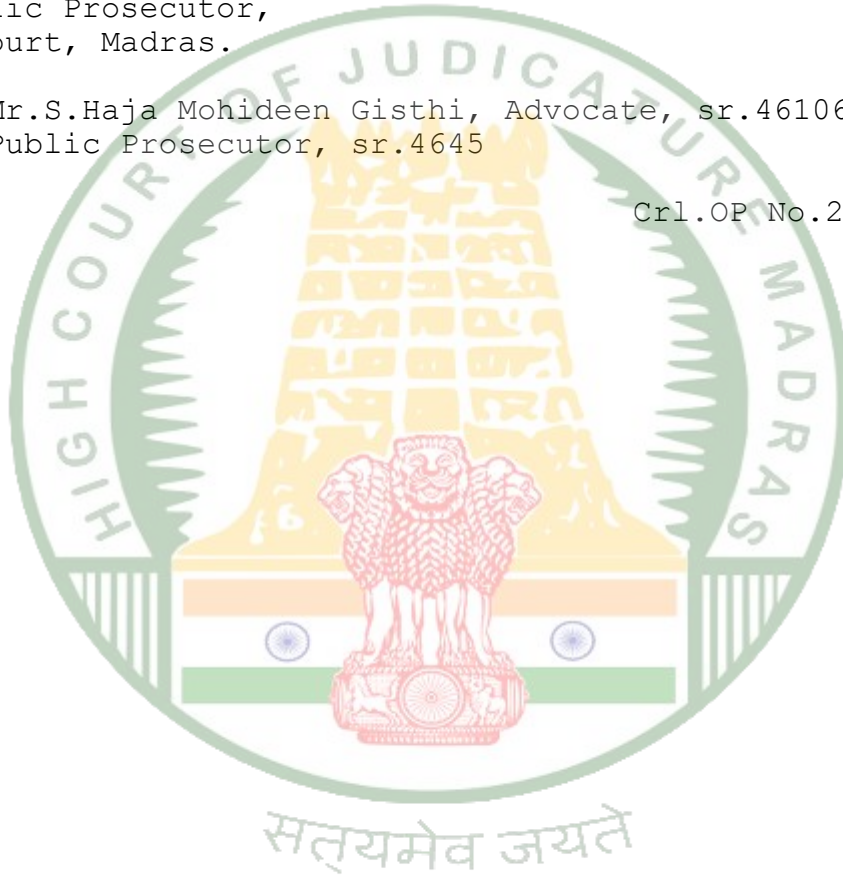
3 The Public Prosecutor,
High Court, Madras.

+1 cc to Mr.S.Haja Mohideen Gisthi, Advocate, sr.46106

+1 cc to Public Prosecutor, sr.4645

Crl.OP No.20978 of 2015

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