

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 22.02.2016

CORAM:

THE HON'BLE DR.JUSTICE P.DEVADASS

Crl.O.P. No.22490 of 2015

and

M.P.No.1 of 2015

R.Marimuthu

... Petitioner/Accused 8
vs.

The State rep.by

The Additional Superintendent of Police
SPE/CBI/ACB, Chennai.

... Respondent

Prayer: Petition filed under Section 482 of the Code of Criminal Procedure Code, to set aside the order of learned XI Additional Special Court for CBI Cases Chennai in Crl.M.P.No.3501 of 2015 in C.C.No.8 of 2002 with regard to imposing of Rs.20,000/- deposit for recalling the witnesses and allow the petition filed by the petitioner/8th accused.

For Petitioner : Mr.P.Chandrasekar

For Respondent : Mr.K.Srinivasan
Special Public Prosecutor
for CBI cases

O R D E R

A8, viz., R.Marimuthu in C.C.No.8 of 2002 on the file of the learned XI Additional Special Court [CBI Cases], Chennai aggrieved by the order of the Court dated 17.08.2015 passed under Section 311 Cr.P.C. directing him to deposit Rs.20,000/- as a condition to recall the witnesses for his cross examination, this Criminal Original Petition has been filed.

2. According to the learned counsel for the petitioner the learned Judge directed the petitioner to deposit heavy amount.

3. Learned Special Public Prosecutor [CBI cases] submitted no opportunity shall be given to drag on the trial.

4. In Crl.O.P.No.2855 of 2016 dated 10.02.2016 in Krishniah vs. State through Inspector of Police, CBI/ACB/Chennai under similar circumstances, I have occasioned to go deep into the question as to what would be the amount that an accused should be called upon to deposit to recall the witness. I have viewed the matter from the angle of Article 22(1) of the Constitution of India, Section 243(3) of Cr.P.C., 312 Cr.P.C. and Rule 406 of Criminal Rules of Practice and ruled that the Court can direct the accused to deposit only a reasonable amount towards the expenses of the witness and if any unreasonable amount or heavy amount is ordered then it will infringe his right of defence guaranteed to him under Article 22(1) of the Constitution of India and his right to fair trial and the principle laid down in Menaka Gandhi vs. Union of India [AIR 1978 SC 597].

5. Now in the present case, there are nine witnesses. Out of them eight witnesses are from Madras and one witness is from Mannargudi. The learned Judge has directed A8 to deposit Rs.20,000/- towards their expenses. In the facts and circumstances, it is heavy. It should be of a reasonable amount covering the to and fro expenses and the subsistence allowance of the witnesses.

6. For the 8 Madras witnesses, Rs.150/- per head and Rs.600/- for the witness from Mannargudi would suffice and totally it comes to Rs.1,800/-.

7. In the circumstances, the order of the learned XI Additional Special Judge [CBI Cases] Chennai passed in Crl.M.P.No.3501 of 2015 in C.C.No.8 of 2002 dated 17.08.2015 is modified to the effect that the petitioner/A8 shall deposit a sum of Rs.1,800/- [One thousand and eight hundred and only] before the Court within one week from the date of receipt of a copy of this order. It is made clear that the witnesses present on that day shall be examined and there shall be no deferring of their cross examination.

8. With the above direction, this petition is disposed of. Consequently, the connected miscellaneous petition is closed.

Sd/-
Assistant Registrar(CO)

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Sub Assistant Registrar

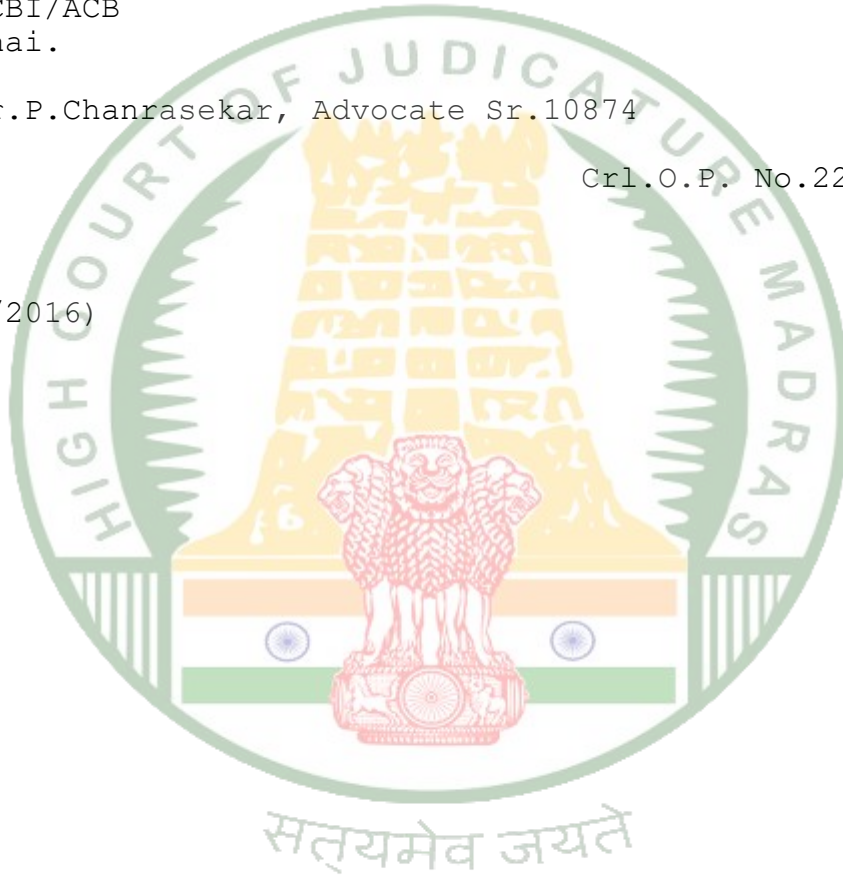
To

1. The XI Additional Special Judge,
[CBI Cases],
Chennai.
2. The Special Public Prosecutor,
[CBI Cases],
Chennai.
3. The Additional Superintendent of Police
SPE/CBI/ACB
Chennai.

+1cc to Mr.P.Chanrasekar, Advocate Sr.10874

Crl.O.P. No.22490 of 2015

skv(CO)
srg(01/03/2016)



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