

IN THE HIGH COURT OF JUDICATURE AT MADRAS

Dated : 02.11.2016

Coram

THE HONOURABLE MR. JUSTICE P.VELMURUGAN

Crl.R.C.Nos.1117 and 1118 of 2016

Mr.Thanjai Chezian .. Revision Petitioners in both Crl.Rcs.

..Vs..

State by

The Inspector of Police,
Central Bureau of investigation,
Economic Offence Wing,
Chennai.

.. Respondents in both Crl.Rcs.

Prayer in Crl.RC.No.1117 of 2016 :-Criminal Revision Petition filed under Sections 397 and 401 of Cr.P.C. praying to set aside the order in Crl.M.P.No.2197 of 2016 order dated 30.08.2016 in C.C.No.5127 of 2015, on the file of the Learned Additional Chief Metropolitan Magistrate, Egmore, Chennai, in Crime No.RC.11/E/2008-CBI/EOW/Chennai on the file of the respondent police and dispense with the appearance of the petitioner in C.C.No.5127 of 2009 on the file of Learned Additional Chief Metropolitan Magistrate, Egmore, Chennai in Cr.No.RC.11/E/2008-CBI/EOW/Chennai and permit the petitioner to represent through his advocates.

Prayer in Crl.RC.No.1118 of 2016 :- Criminal Revision Petition filed under Sections 397 and 401 of Cr.P.C. praying to set aside the order in Crl.M.P.No.2198 of 2016 order dated 30.08.2016 in C.C.No.4859 of 2015, on the file of the Learned Additional Chief Metropolitan Magistrate, Egmore, Chennai, in Crime No.RC.9/E/2008-CBI/EOW/Chennai on the file of the respondent police and dispense with the appearance of the petitioner in C.C.No.4859 of 2009 on the file of Learned Additional Chief Metropolitan Magistrate, Egmore, Chennai in Cr.No.RC.9/E/2008-CBI/EOW/Chennai and permit the petitioner to represent through his advocates.

For Petitioner : Mr.P.Kumaresan
For Respondent : Mr.K.Srinivasan, SPP for CBI

COMMON ORDER

These criminal revision petitions are directed to set aside the order in CrI.M.P.Nos.2197 and 2198 of 2016 and order dated 30.08.2016 in C.C.Nos.5127 and 4859 of 2009, on the file of the Learned Additional Chief Metropolitan Magistrate, Egmore, Chennai, in Crime Nos.RC.11/E/2008-CBI/EOW/Chennai and RC.9/E/2008-CBI/EOW/Chennai on the file of the respondent police and dispense with the appearance of the petitioner in C.C.Nos.5127 and 4859 of 2009 on the file of Learned Additional Chief Metropolitan Magistrate, Egmore, Chennai in Cr.Nos.RC.11/E/2008-CBI/EOW/Chennai and 9/E/2008-CBI/EOW/Chennai and permit the petitioner to represent through his advocates.

2. There are two cases that the petitioner herein in C.C.No.5127 of 2009 and in C.C.No.4859 of 2009 has been arrived as A5 and A3 respectively. The petitioner had filed two petitions before the Trial Court to dispense with the appearance of the petitioner before the Learned Additional Chief Metropolitan Magistrate, Egmore, Chennai with condone delay. The Trial Court dismissed the petitions on 30.08.2016.

3. Aggrieved with the orders passed by the Trial Court in CrI.M.P.No.2197 of 2016 in CrI.Rc.No.1117 of 2016 and CrI.M.P.No.2198 of 2016 in CrI.Rc.No.1118 of 2016, the petitioner is before this Court with these Revision Petitions.

4. The learned counsel appearing for the petitioner would submit that the petitioner is a practicing advocate at Madras and having regular practice before this Court, City Civil Court and Small Causes Court. Due to his professional commitments was unable to attend the hearing regularly. He is present in all the hearings and his presence is not necessary now the prosecution has examined as P.W.1. The Trial Court has proceeded the matter once in 10 days and the petitioner is insisted to present throughout the day on the hearings, which in turn, affects his profession. The Trial Court did not consider this facts simply dismissed the petitions. Hence, he prayed to consider this aspects and set aside the order passed by the Trial Court. However, he shall appear before the Trial Court as and when so ordered by the Trial Court for any effective hearing.

5. The learned counsel appearing for the respondent would submit that the case is pending from 2009 and charges were already framed . Now the case is at the stage of examination of witnesses. So, the witnesses are to identify the accused. So far identification purpose, the presence of the petitioner/accused is very much necessary. It is also pertinent to mention that the counsel for the accused may not take interest in the absence of the accused.

6. Heard both sides and records perused carefully.

7. From the averment made in the affidavit filed by the petitioner, counter filed by the respondent and available records, it is revealed that this case is pending from 2009 and now the case is at the stage of examination of prosecution witnesses and the Trial has been commenced by examination of P.W.1 and posted for examination of further witnesses. Under these circumstances, the Trial Court has dismissed the applications and felt that personal appearance of the accused during the trial before the Trial Court is necessary.

8. On careful consideration of entire facts and submissions by both the counsels, since the trial has been commenced in both the cases, this Court is not inclined to allow these revision petitions and accordingly, the Revision Petitions are dismissed. However, considering the case is of the year of 2009 and pending for more than 12 years and now, the Trial has been commenced and the case is posted for examination of further witnesses of prosecution, the Trial Court is directed to dispose of the case within a period of six months from the date of receipt of a copy of this order.

9. In the result, the Criminal Revision Petitions are dismissed.

Sd/-

Assistant Registrar

//True Copy//

Sub Assistant Registrar

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To

The Additional Chief Metropolitan Magistrate, Egmore, Chennai

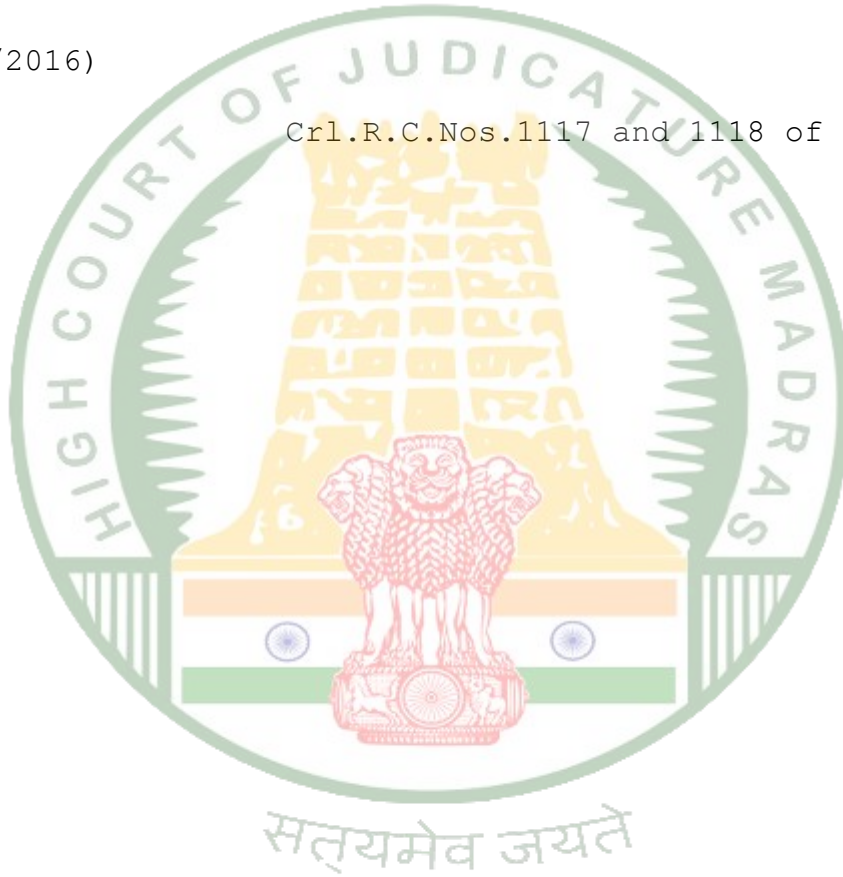
2 The Inspector of Police,
Central Bureau of investigation,
Economic Offence Wing,
Chennai.

3 The Public Prosecutor
High Court, Madras

+2cc to Mr.P. Kumaran, Advocate, S.R.No.62708,62707

sns (CO)
md (17/11/2016)

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