

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 17.10.2016

CORAM

THE HONOURABLE MR.JUSTICE P.N.PRAKASH

CRL.OP.No.22906 of 2016

Kolanjinathan .. Petitioner

Vs

State Rep. by
Sub Inspector of Police
K.10, Koyambedu Police Station
Chennai-600 107. ... Respondent

PRAYER : Criminal Original Petition filed under Section 482 Cr.P.C., praying to modify the condition made in Crl.M.P.No.2581/2016 in CC No.1811/2016 dated 9.09.2016 by the Hon'ble V Metropolitan Magistrate, Egmore and permit the petitioner to recall and cross the P.W.1 to P.W.4.

For Petitioner : Mr.M.Shankar

For Respondent : Mr.C.Emalias,
Additional Public Prosecutor

O R D E R

This Criminal Original Petition has been filed praying to modify the condition made in Crl.M.P.No.2581/2016 in CC No.1811/2016 dated 9.09.2016 by the V Metropolitan Magistrate, Egmore and permit the petitioner to recall and cross P.W.1 to P.W.4.

2. Heard the learned counsel appearing for the petitioner and the learned Additional Public Prosecutor appearing for the State.

3. The petitioner is facing trial in CC.No.1811 of 2015 before the V Metropolitan Magistrate, Egmore for offences under Sections 294(b), 354(b) and 506(i) IPC. The prosecution examined PW1 to PW4 in chief, but they were not cross examined by the petitioner due to boycott by advocates. The petitioner filed Crl.MP.No.2581 of 2016 in CC No.1811 of 2015 under Section 311 Cr.PC to recall PW1 to PW4 for cross-examination, which was allowed by the trial Court on 09.09.2016 on condition that the petitioner shall deposit witness batta of Rs.1000/- each. Challenging the said order, the petitioner is

before this Court on the ground that Rs.1000/- ordered to be deposited as witness batta is very high.

4. Learned counsel appearing for the petitioner relied upon the order passed by this Court in T.V.Srinivasan and Another -VS- Union of India [(2016) 2 MLJ (Cr1) 291].

5. This Court gave its anxious consideration to the rival submissions of the learned counsel.

6. In the Judgment relied upon by the petitioner, this Court held that paying Rs.1000/- as costs to the Legal Aid would amount to taking away the right of the accused for fair trial. In this case, boycott of Courts cannot be a reason for not cross-examining the prosecution witness on the date of their examination-in-chief in the light of the Judgment of the Supreme Court in Vinoth Kumar vs. State of Punjab [2015(1) MLJ (Cr1) 288].

7. Therefore, the order passed by the trial Court does not suffer from any serious infirmity. However, taking into consideration the facts and circumstances of the case, and the financial condition of the petitioner, witness batta is reduced from Rs.1000/- to Rs.500/- (Rs.500/- x 4 = Rs.2,000) for PW1 to PW4, which shall be deposited by the petitioner before the trial Court within a period of two weeks from the date of receipt of a copy of this order. Rest of the conditions imposed by the trial Court shall remain the same.

With the above direction, this petition is ordered.

Sd/-

Assistant Registrar(CS IV)

//True Copy//

Sub Assistant Registrar

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To

1. V Metropolitan Magistrate, Egmore, Chennai.

2. the Sub Inspector of Police
K.10, Koyambedu Police Station
Chennai-600 107.

3. The Public Prosecutor, High Court, Madras.

1 cc to M/s.M.Shankar, Advocate, sr.58306

kra 18.10.2016

CRL.OP.No.22906 of 2016