

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 11.11.2016

CORAM:

THE HONOURABLE MR.JUSTICE P.VELMURUGAN

CRL. O.P.No.23050 of 2016
and
CRL.MP.No.10822 of 2016

M. Yuvarajan .. Petitioner

Vs.

1.The Inspector of Police
Central Bureau of Investigation
Economic Offences Wing,
Chennai.

2. N.Swaminathan .. Respondents

Prayer:- Criminal Original Petition filed under Section 407 of Cr.P.C., to transfer the case in C.C.No.7/2013 pending on the file of the XI Additional Sessions Court for CBI Cases, Chennai to any other competent court.

For Petitioner : Mr. R. Ganesh Kumar
For Respondent No.1 : Mr.K.Srinivasan
Special Public Prosecutor
for CBI

O R D E R

Petitioner has filed this petition u/s.407 of Cr.P.C., to transfer the case in C.C.No.7/2013 pending on the file of the XI Additional Sessions Court for CBI Cases, Chennai to any other competent court.

2. He has made certain allegations against the learned Trial Judge and report was called for from him. The trial Judge stated that the accused filed a petition before the trial court u/s.311 of Cr.P.C., to recall the witnesses. However, the trial court has not allowed the petition. Therefore, the petitioner/accused is prejudiced and before this court with this present petition.

3. This court has carefully perused the available materials placed before it. Considering the records,

it is seen that the only ground on which the allegation of transfer is made is that the trial court insisted the petitioner to file an affidavit not to recall the witness No.PW.31. Therefore, the petitioner has an apprehension that he would not get justice from the trial court. But, on perusal of the records, it is seen that earlier this court has given a direction to the trial court to dispose of the matter within the stipulated time. But, even after issuance of a direction, the petitioner and the other accused have not cooperated for the disposal of the case. Under such circumstances, the learned Trial Judge would have got some pressure or anxiety to dispose of the case as directed by this court. Therefore, the submissions made by the learned counsel for the petitioner in the affidavit is not acceptable. Further, in order to meet the ends of justice and to give one more opportunity to the petitioner, the Trial court Judge is directed to give an opportunity to the petitioner to cross examine PW31. The petitioner is at liberty to file application u/s.511 of Cr.P.C., to recall witness No.PW31. If the petitioner files the recall application, the trial court is directed to consider the same on merits on the same day itself and give an opportunity to the petitioner to cross examine PW31. Consequently, connected miscellaneous petition is closed.

With the above observation, this petition is dismissed. Consequently, miscellaneous petition is also closed.

Sd/-
Assistant Registrar

//True Copy//

Sub Assistant Registrar

To
The XI Additional Sessions Court,
for CBI Cases, Chennai

+1cc to Mr.R. Ganesh Kumar, Advocate, S.R.No.65389

ks(CO)
md(25/11/2016)

CRL. O.P.No.23050 of 2016 and
CRL.MP.No.10822 of 2016