

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 01.11.2016

CORAM:

THE HONOURABLE MR.JUSTICE P.VELMURUGAN

Criminal Original Petition No.24091 of 2016

Vasudevan

.. Petitioner/Petitioner/Accused-1

Vs.

State rep. By
The Inspector of Police,
SPE/CBI/ACB,
Chennai.

... Respondent/Respondent/Complainant

Prayer:- Criminal Original Petition filed under Section 482 Cr.P.C., to call for the records and set aside the order passed by the learned XI Additional Special Judge, CBI Cases, Chennai in CrI.M.P.No.2264 of 2016 in C.C.No.12 of 2005 dated 19.10.2016.

For Petitioner : Mrs. V. Anuradha
For Respondent : Mr.K.Srinivasan
Special Public Prosecutor
for CBI

O R D E R

With the consent of both counsel appearing on either side, this matter is taken up for hearing at the admission stage itself.

2. The petitioner is the accused in C.C.No.12 of 2005 which was dismissed by the XI Additional Special Court, CBI Cases, Chennai, in CrI.M.P.No.2264 of 2016. The petitioner herein stood charged for the offences under Sections 120B r/w. 420 IPC, 468, 471 IPC and Section 13(1)(2)13(1)(d) of Prevention of Corruption Act. By judgment dated 19.10.2016, the Trial Court dismissed the application filed under Section 311 Cr.P.C., on the ground that the appellant is protracting the matter under the guise of cross examination. Challenging the above said dismissal order, the petitioner is before this Court with this Criminal Original Petition.

3. The case of the prosecution, in brief, is as follows:-

The petitioner is facing trial in the above said alleged offences. The case was posted on 18.11.2016 for questioning

under Section 313 Cr.P.C. Meanwhile, the accused has filed a petition in CrI.M.P.No.2264 of 2016 seeking to recall the prosecution witness, PW1 to PW24 for the purpose of cross examination. The Trial Judge had dismissed the application stating that recalling the witness PW1 to PW24 will protract the proceedings at the end of the stage of the case.

4. Learned counsel for the petitioner would submit that the witnesses have not been given an opportunity for cross-examination and thus sought for one more opportunity for cross-examination. The learned counsel for the petitioner was directed to submit the list of witnesses containing PW1 to PW24 and as such, they have filed a list of witnesses and the trial court examined PW.1 to PW.24 as Chief-examination. He further submitted that the earlier counsel has given the documents to the present counsel on 12.05.2016 and the present counsel had filed the petition on 10.06.2016.

5. Learned counsel for the respondent would submit that even though sufficient opportunity was given to the petitioner, he protracted the matter without any valid reason.

6. Heard both sides. Perusal of the records and submissions made by both side learned counsel shows that petitioner/A2 has not cross-examined any of the witnesses.

7. Considering the above said facts and circumstances of the case and submissions made on either side and considering the fact that since the complaint was not disposed of on merits and that, in order to give an opportunity to the petitioner to cross-examine the prosecution witnesses in CrI.M.P.No.2264/2016 and in the interest of justice, this court is inclined to allow the Criminal Original Petition conditionally. Accordingly, the order passed by the Trial Court is set aside and this Petition is allowed, on condition of deposit of Rs.50,000/- (Rupees Fifty Thousand Only) by the petitioner to the credit of C.C.No.12 of 2005 on the file of XI Additional Special Court, CBI Cases, Chennai, on or before 25.11.2016, failing which, the petition stands dismissed automatically, without further reference to the court.

8. On such deposit, the Trial Court is directed to issue summons to all the witnesses at the cost of the petitioner herein/accused within one month from the date of deposit of the above said amount and by utilising the deposited amount for payment of batta, costs and other emoluments as per rules and further directed to complete the cross-examination of prosecution witnesses without getting any further adjournment.

9. The Trial court is directed to dispose of C.C.No.12 of 2005 within two months from the date of deposit and both the parties are directed to cooperate with the Trial Court in the disposal of the case.

Sd/-
Assistant Registrar

//True Copy//

Sub Assistant Registrar

gv

To

1 The XI Additional Special Court,
CBI Cases, Chennai

2 The Inspector of Police
SPE/CBI/ACB, Chennai

+1cc to Mr.T. Surendhar, Advocate, S.R.No.61954

+1cc to Mr.K. Srinivasan, Advocate, S.R.No.62060

vgi (CO)

md (18/11/2016)

CrI.O.P.No.24091 of 2016

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