

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 25.04.2017

CORAM

THE HONOURABLE MR.JUSTICE M.M.SUNDRESH

CRL.O.P.No.8145 of 2017

and

CRL.M.P.No.5877 of 2017

D.Balu

... Petitioner

Vs

State by
Deputy Superintendent of Police,
Vigilance and Anti Corruption,
Salem.

... Respondent

Criminal Original Petition under Section 482 of Cr.P.C to call for the records and set aside the order made in Crl.M.P.No.152 of 2017 in Spl. C.C.No.80 of 2014 dated 06.04.2017 by the Special Judge (Special Court for Prevention of Corruption Act), Salem.

For Petitioner : Mr.A.Nagarathinam

For Respondent : Mr.E.Raja
Additional Public Prosecutor

ORDER

The petitioner being the sole accused in Spl.C.C.No.80 of 2014 filed an application under Section 311 of Code of Criminal Procedure seeking to recall P.Ws.6 and 10, who are not being cross-examined. The application was dismissed by the Court below by refusing to exercise the discretion in favour of the petitioner.

2.Learned counsel appearing for the petitioner would submit that the petitioner could not cross-examine the said two witnesses since the information sought for did not reach him at the relevant point of time. Now, he is ready and willing to cross-examine the above said witnesses, if an opportunity is given.

3.Learned Additional Public Prosecutor would submit that considering the facts of the case, no interference is required.

4.A fair trial requires sufficient opportunity. Considering the submissions made, this Court is of the view that the petitioner will have to be given a final opportunity to cross-examine P.Ws.6 and 10. There is no difficulty in appreciating the reasoning of the Court below in para 11. But it is also important to give an opportunity to the accused to cross-examine the prosecution witness, which is being relied upon as a piece of evidence.

5.In such view of the matter, the order passed by the Special Judge (Special Court for Prevention of Corruption Act), Salem is set aside on condition that the petitioner shall cross-examine P.Ws.6 and 10 on the next date of hearing - 18.05.2017. Any failure on the part of the petitioner to comply with the same will restore the order passed by the trial Court. The Criminal Original Petition is allowed. Consequently, connected miscellaneous petition is closed.

Sd/-
Assistant Registrar(CS II)

//True Copy//

Sub Assistant Registrar

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To

- 1.The Special Judge,
(Special Court for Prevention of Corruption Act),
Salem.
- 2.The Deputy Superintendent of Police,
Vigilance and Anti Corruption,
Salem.
- 3.The Public Prosecutor,
High Court, Madras.

+lcc to Mr.A.Nagarathinam, Advocate, S.R.No.24766

Cr1.O.P.No.8145 of 2017

RR(CO)
CA(27/04/2017)