

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 25.04.2017

CORAM

THE HONOURABLE MR.JUSTICE R.MAHADEVAN

Crl.O.P.No.8190 of 2017

and

Crl.M.P.No.5901 of 2017

T.Selvarajan

.. Petitioner

Vs

State represented by
Inspector of Police,
K-2, Ayanavaram,
Chennai.

.. Respondent

Petition filed under Section 482 of the Criminal Procedure Code, to set aside the order dated 28.03.2017 passed in CMP.No.628 of 2017 in CC No.4811 of 2010, by the learned V Metropolitan Magistrate, Egmore, Chennai -8.

For Petitioner : Mr.S.Madhusudanan

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

ORDER

This Criminal Original Petition has been filed to set aside the order dated 28.03.2017 passed by the learned V Metropolitan Magistrate, Egmore, Chennai - 8 in C.M.P.No.628 of 2017 in C.C.No.4811 of 2010.

2. The case of the petitioner is that he is facing criminal prosecution for the offences punishable under Sections 452 and 420 IPC r/w Section 4 of the Woman Harassment Act in C.C.No.4811 of 2010 on the file of the learned V Metropolitan Magistrate, Egmore, Chennai. During the course of trial, he filed a petition in CMP No.628 of 2017 under Section 311 Cr.P.C to recall P.W.2 to P.W.11 for the purpose of cross examination. However, the learned Magistrate dismissed the said petition, by order dated 28.03.2017, against which, the present petition came to be filed by the petitioner.

3. Learned counsel for the petitioner submitted that on the date of examination of PW.2 to PW.11, the petitioner's counsel was engaged in the Madurai Bench at Madras High Court, due to which, he could not cross examine those witnesses. Without considering the same, the trial Court dismissed the petition filed by the petitioner under Section 311 Cr.P.C. Therefore, learned counsel seeks indulgence of this Court to provide an opportunity, enabling the petitioner to substantiate his case.

4. On the other hand, learned Additional Public Prosecutor submitted that PW.2 to PW.11 were produced before the trial Court with great difficulty, however, the petitioner failed to avail the opportunity provided to him by not cross examining those witnesses. Learned Additional Public Prosecutor further submitted that the petitioner sought for permission to cross examine those witnesses, only with an intention to drag on the proceedings.

5. Heard both sides.

6. On a perusal of the materials placed before this Court, it could be seen that PW.1 to PW.9 were already examined on the side of the prosecution. Further, the petitioner was given reasonable time to cross examine those witnesses, but he failed to utilise the same. However, in order to provide one more opportunity to the petitioner, enabling him to prove his case, this Court is inclined to set aside the order impugned herein only to the extent of cross examination of PW8.

7. Accordingly, the order dated 28.03.2017 passed in CMP.No.628 of 2017 in CC No.4811 of 2010 by the learned V Metropolitan Magistrate, Egmore, Chennai is set aside, insofar as PW.8 alone is concerned. The petitioner is permitted to recall P.W.8 alone, viz., K.Ramesh S/o.S.Kesavalu, on 19.05.2017 for the purpose of cross examination. It is made clear that no further adjournment be granted to the petitioner and no further petition under Section 311 Cr.P.C be entertained by the trial Court.

8. The Criminal Original Petition is disposed of, as indicated above. Consequently, the connected miscellaneous petition is closed.

-s/d-

Assistant Registrar (CS-VI)

True Copy

Sub-Assistant Registrar

To

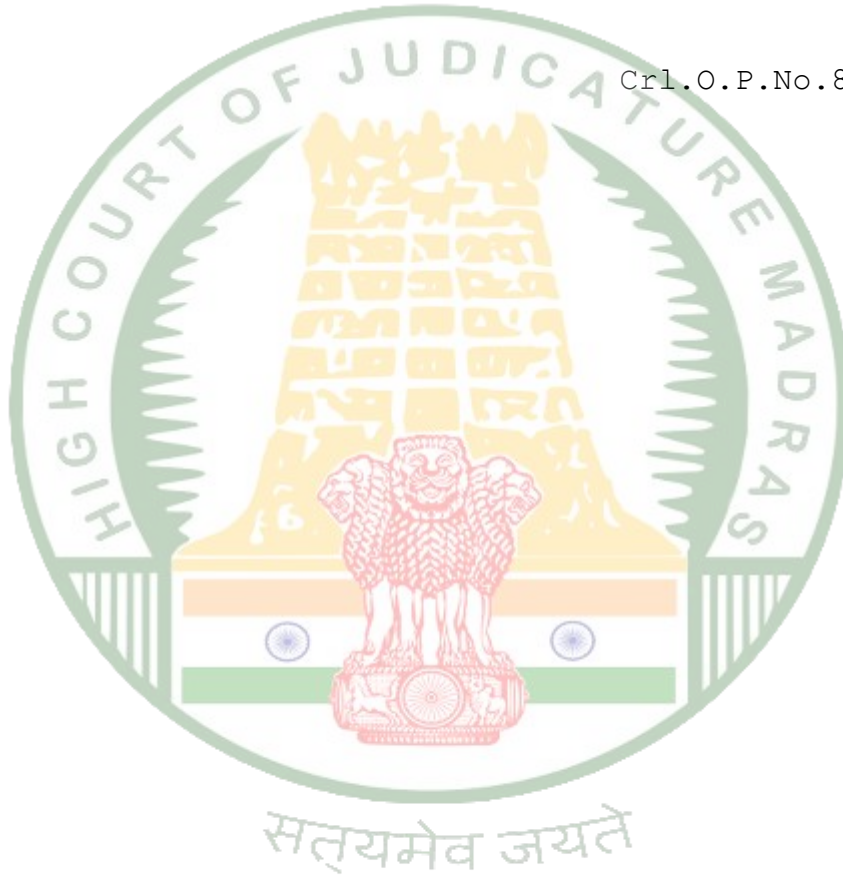
1.The V Metropolitan Magistrate, Egmore, Chennai.

2.The Inspector of Police, K-2, Ayanavaram,
Chennai.

3.The Public Prosecutor, High Court, Madras -104.

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