

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 13.04.2017

CORAM

THE HONOURABLE MR.JUSTICE R.MAHADEVAN

Crl.O.P.No.7208 of 2017

and

Crl.M.P.No.5197 of 2017

1.Mohanraj
2.Raja
3.Veera Sampathkumar
4.Ram Shankar

[Petitioners]/Accused 1 to 4

Vs

State
rep.by the Inspector of Police,
Kolathur Police Station,
Salem District.

[Respondent]/Complainant

Petition filed under Section 482 of the Criminal Procedure Code, to set aside the order dated 06.03.2017 passed in C.M.P.No.1212 of 2016 in C.C.No.151 of 2010 on the file of the learned Judicial Magistrate No.1, Mettur.

For Petitioners : Mr.M.Mariappan

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

O R D E R

The petition filed by the petitioners under Section 311 Cr.PC in C.M.P.No.1212 of 2017 in C.C.No.151 of 2010 before the learned Judicial Magistrate No.1, Mettur, to recall the prosecution witness, viz. P.W.10 for cross examination, came to be dismissed on 06.03.2017 for the simple reason that the petitioners had not utilised the earlier opportunities given and that the petitioners had filed the application with an intention to drag on the proceedings. Challenging the said order, the petitioners have come up with the present Criminal Original Petition.

2.The learned counsel for the petitioners submitted that despite the prosecution endorsed no objection for cross-

examining P.W.10 by the petitioners, without considering the same, the Judicial Magistrate No.1, Mettur, has mechanically dismissed the application stating that the application was filed to drag on the case. According to the learned counsel for the petitioners no proper and adequate opportunities have been given for cross-examination of P.W.10.

3.Mr.C.Emalias, learned Additional Public Prosecutor, takes notice for the respondent.

4.Considering the facts and circumstances of the case, the impugned order dated 06.03.2017 is hereby set aside and the matter is remitted to the learned Judicial Magistrate No.1, Mettur for recalling P.W.10 for cross-examination by the petitioners. The cross examination of P.W.10 shall be conducted on 24.04.2017. No further adjournments be granted by the Trial Court for cross-examination of P.W.10.

5.This petition is disposed of accordingly. Consequently, the connected miscellaneous petition is closed.

s/d-
Assistant Registrar(CS-VI)

True Copy

Sub-Assistant Registrar

To

1. The Inspector of Police,
Kolathur Police Station,
Salem District.

2. The Judicial Magistrate No.1, Mettur.

3. The Public Prosecutor,
Madras High Court,
Chennai-600 104.

+1 CC to Mr. M. Mariappan, Advocate sr 22985

Cr1.O.P.No.7208 of 2017
and
Cr1.M.P.No.5197 of 2017

TM(CO)
sp/20/4