

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 28.04.2017

CORAM

THE HONOURABLE MR.JUSTICE R.MAHADEVAN

Crl.O.P.No.7254 of 2017

and

Crl.M.P.No.5243 of 2017

1. Settu Udayar
2. Sureshkumar

[Petitioners]

Vs

State: by
The Inspector of Police,
Vellore Taluk Police Station,
Vellore & District.
(in Crime No.18 of 2013).

[Respondent]

Petition filed under Section 482 of the Criminal Procedure Code, to call for the records pertaining to the Judgement rendered in C.M.P. No.250 of 2017 in C.C. No. 57 of 2013 dated 03.02.2017 by the learned Judicial Magistrate No.1, Vellore and District and set aside the same.

For Petitioners : Mr.M.Duraimurugan

For Respondent : Mr.Mohamad Riyaz,
Government Advocate (Criminal Side)

ORDER

This Criminal Original Petition is filed to quash the judgment rendered in C.M.P.No.250 of 2017 in C.C.No.57 of 2013 dated 03.02.2017 on the file of the Judicial Magistrate No.1, Vellore District, wherein the trial Court has dismissed the application stating that the application was filed belatedly.

2.The learned counsel for the petitioners submitted that there are two crime numbers involved in this case viz., Crime Nos.18 of 2013 and 19 of 2013; that the trial Court failed to note that there is a case in counter filed by the second petitioner in Crime No.19 of 2013 and the respondent police filed charge sheet only in Crime No.18 of 2013 alone on 25.02.2013 within 1½ month from the date of filing of the First

Information Report; that in the counter case, the respondent police filed charge sheet on 05.05.2015 after a lapse of 2½ years. He further submitted that the Trial Court has failed to note that the second petitioner has approached this Court for a direction to expedite the investigation and to file final report in Crime No.19 of 2013 in order to club and conduct the trial of both cases in Crime Nos.18 and 19 of 2013. Stating so, the learned counsel for the petitioner prayed for a direction to the Trial Court for early disposal of the case in C.C.No.57 of 2013.

3.Mr.Mohamad Riyaz, learned Government Advocate (Criminal Side) takes notice for the respondent.

4.The petitioners have challenged the impugned proceedings, as it is a non-speaking order without verifying the earlier hearings conducted. It is also seen that the second petitioner has approached this Court for a direction to expedite the investigation and to file final report in Crime No.19 of 2013 in order to club and conduct joint trial of the cases in Crime Nos.18 and 19 of 2013. Only for this reason, the cross examination of P.Ws.1 to 6 and 8 was sought to be conducted. Without considering all these aspects the trial Court dismissed the recall petition filed for cross examination of the witnesses. Considering the facts and circumstances of the case, the order dated 03.02.2007 made in C.M.P.No.250 of 2017 in C.C.No.57 of 2013 passed by the learned Judicial Magistrate No.1, Vellore District is set aside and the petitioners are permitted to cross examine P.Ws.1 to 6 and 8 on 16th, 17th and 18th May 2017. On the said dates, the cross examination of the witnesses P.Ws.1 to 6 and 8 shall take place. It is made clear that no further adjournments under Section 311 of Cr.P.C. shall be entertained by the trial Court.

5.The Criminal Original Petition is disposed of accordingly. Consequently, the connected miscellaneous petition is closed.

सत्यमेव जयते
-s/d-

Assistant Registrar (CS-IV)

True Copy

Sub-Assistant Registrar

To

1. The Inspector of Police,
Vellore Taluk Police Station,
Vellore & District.

2. The Judicial Magistrate No.I,
Vellore District.

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

+1 CC to Mr.M. DuraiMurugan, Advocate sr 36466

CrI.O.P.No.7254 of 2017
and
CrI.M.P.No.5243 of 2017

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