

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED 21.09.2017

CORAM

THE HONOURABLE Mr. JUSTICE M.S.RAMESH

Crl.O.P.No.4617 of 2017
and Crl.M.P.No.4577 of 2017

1.Wilson
2.Leo

.. Petitioners

Vs.

State rep. by
The Inspector of Police,
K-10 Koyambedu Police Station,
Chennai-17.

.. Respondent

Criminal Original Petition filed under Section 482 of Cr.P.C. praying to set aside the order dated 29.09.2016 made in Crl.M.P.No.2651 of 2016 in C.C.No.11083 of 2014 on the file of the V Metropolitan Magistrate Court, Egmore and further direct the learned V Metropolitan Magistrate Court, Egmore to recall PW1 and PW4 for cross examination.

For Petitioner : Mr.P.K.Ilavarasan
For Respondent : Mr.P.Govindarajan, APP

सत्यमेव जयते
WEB COPY
ORDER

The Petitioners' request to recall PW1 and PW4 for cross examination under Section 311 of the Code of Criminal Procedure was rejected by an order, dated 29.09.2016, on the ground that the petitioners have not stated any reasons for

non filing of the said petition immediately after 06.01.2016. Challenging the same, the present petition is filed.

2. It is true that the Hon'ble Supreme Court in various cases condemned the practices of vexatious applications filed under Section 311 of Cr.P.C to protract the proceedings.

3. Learned counsel for the petitioners submitted that there is no intention to protract the proceedings and further submitted that if the petitioners may be given an opportunity for cross examining the prosecution witnesses PW1 and PW4, they would complete the examination on the same day.

4. In view of the submissions made by the petitioners, by giving another opportunity to cross examine the prosecution witness PW1 and PW4 by fixing the time frame for completing the cross examination will not cause prejudice to the prosecution and by fixing such time frame, the proceedings may not get unjustifiably prolonged.

5. Hence the order passed in Crl.M.P.No.2651 of 2016 in C.C.No.11083 of 2014 on the file of the V Metropolitan Magistrate Court, Egmore is set aside. Consequently, the learned V Metropolitan Magistrate Court, Egmore is directed to permit the petitioners to recall and cross examine PW1 and PW4 on 03.10.2017. It is made clear that the petitioners shall complete the cross examination on the

same day and no further extension will be granted.

With the above observations and directions, the Criminal Original Petition stands disposed of. Consequently, the connected Miscellaneous Petition is also closed.

21.09.2017

Note : Issue order copy on 22.09.2017

Index : Yes/No
gya

M.S.RAMESH, J.

This matter is posted today before this Court under the caption 'For Being Mentioned' at the instance of the learned counsel for the petitioner.

2. In my earlier order dated 21.09.2017 in CrI.O.P.No.4617 of 2017 in paragraph Nos.1, 3, 4 and 5 it was stated that "to recall and cross examine the prosecution witnesses P.W. 1 and P.W.4". The learned counsel for the petitioner submitted that it was wrongly mentioned as "P.W. 1 and P.W.4" instead of "P.W. 1 to P.W.4" and the same requires to be rectified. Thus he prayed for suitable directions.

3. Considering the submissions of the learned counsel for the petitioner, in the order dated 21.09.2017 in CrI.O.P.No.4617 of 2017, the Registry is directed to correct the words as "P.W.1 to P.W.4" and issue order copy afresh.

01.11.2017

rts
Note : Issue order copy
on 01.11.2017

To
1.V Metropolitan Magistrate Court,
Egmore.

2.The Inspector of Police,
K-10 Koyambedu Police Station,
Chennai-17.

3.The Public Prosecutor,
High Court, Madras.



WEB COPY

M.S.RAMESH, J.

gya



Crl.O.P.No.4617 of 2017
and
Crl.M.P.No.4577 of 2017

21.09.2017

WEB COPY